

Guidelines against the abuse of power, discrimination, sexual harassment and violence at the University of Music and Performing Arts Munich

**Dated 12 July 2016
(updated version)**

Altered by a resolution adopted by the University management dated 14 February 2017

Preamble

The University of Music and Performing Arts Munich promotes the equal cooperation of women and men at all function levels in courses, teaching, art, research and service provision. It works actively against abuse of power, any kind of discrimination or disadvantage, sexual harassment and violence against students, employees or teaching staff.

Discrimination, sexualised behaviour and violence constitute an infringement of personal rights and a massive disruption to the University's activities. They create an intimidating, stressful and degrading work and study environment and can lead to serious health problems. They are an infringement of contractual employment, civil service and University legal obligations and as such will be prosecuted.

Discrimination of any kind, as well as any kind of sexual harassment or sexualised use of violence are forbidden at the University and in work-related events outside the University. All members and affiliates of the University, in particular those with training, qualification or managerial responsibilities in teaching, research, training or administration, are responsible in their work and specialist areas for ensuring that people's personal rights and their individual personal boundaries are respected and preserved, and that sexually discriminating behaviour and the use of violence does not occur or is stopped.

The abuse of power by exploiting relationships of dependence in the workplace and during courses of study by threatening and/or carrying out personal or professional disadvantages or by promising advantages will be taken extremely seriously.

The special features of an artistic training with its high proportion of individual and small group tuition and the personal reliance upon a teacher require a particularly sensitive approach to these topics. Especially also because emotion serves as a means of conveying artistic development, and in study programmes such as dance, acting, musicals or musical theatre, physicality is a basic prerequisite to achieving the educational objective.

For that reason, all members and affiliates of the University are particularly called upon to contribute to shaping a work and study environment which offers space for artistic development, characterized by mutual respect and tolerance, and in which there is no place for disadvantage, discrimination, sexual harassment or violence.

§ 1 Scope of application

These guidelines apply to all members, guest students and visitors at the University.

§ 2 Definitions

1. Indirect and direct discrimination

Direct discrimination shall be taken to occur when a person is treated less favourably particularly for reasons of social or ethnic background, gender, appearance, religion or world view, disability, age or sexual identity than another person in a comparable situation experiences, has experienced or would experience. Indirect discrimination shall be taken to occur when persons or groups of persons are likely to be adversely affected in a particular way compared with other persons or groups of persons by an apparently neutral provision, criterion or practice.

2. Discrimination

Discrimination is any form of disadvantage, failure to observe, disregard, disparagement, exclusion or unequal treatment of individuals or groups on the basis of actual or attributed/implied group-specific characteristics.

3. Sexual harassment and violence

Sexual harassment shall be taken to occur when unwelcome, sexually-oriented behaviour, including unwelcome sexual acts and invitations, sexually-oriented physical touching, remarks of a sexual content and unwelcome showing and visible display of pornographic images, are aimed at or caused so that the dignity of the person affected is violated, especially when an intimidating, hostile, humiliating, degrading or insulting environment is created.

Sexual violence is any form of physical harm to another person of a sexual nature and/or the threat of it. Its distinguishing characteristic is coercion where there is an unequal relationship with the interacting party and/or the lack of agreement or an explicitly stated or recognizable "no" from one of the parties involved.

The overall field of sexual discrimination and violence is manifest in the following examples of actions and behaviours:

Conscious remarks of a sexual nature, in particular:

- Choice of sexualised vocabulary, gestures, actions
- Sexualised comments about people and/or their bodies and/or their clothing and/or their appearance
- Comments about a person's intimate life

Unwelcome showing and visible display of naked photos and drawings with sexual content, in particular:

- Pornographic and sexually derogatory graffiti in public places
- The verbal, visual or electronic presentation of pornographic, sexually derogatory images
- The copying, use and exploitation of pornographic, sexually derogatory computer programs and internet sites on EDV equipment in offices or on the University campus.

Unwanted sexual acts and invitations, in particular:

- Sexually-oriented physical touching
- Invitations to sexualised or sexual behaviour
- Pursuit and coercion with a sexual background (also indirectly)
- Physical attacks and rape

Any inappropriate physical contact can also be an unwanted sexual act.

§ 3 Duties and behaviours

All affiliates and members of the University are required to refrain from any disadvantaging, discrimination, sexual harassment or violence against employees, students or other third parties.

It is the duty of the University to pursue contraventions of these guidelines and to prosecute these after due consideration. The University hereby undertakes to ensure that people affected will not suffer any disadvantage from a legitimate disclosure in the event of misconduct by a third party. In this respect it will agree all steps of the procedure with the person affected as far as possible, and ensure the anonymity of the person affected to the greatest possible extent. The identity of the person affected will only be revealed to the extent required if this is imperative because of legal regulations or overriding significant common interests.

The University management is developing a separate procedure to change teachers in cases of sexual harassment between teaching staff and students.

The presumption of innocence in favour of accused persons should be observed.

§ 4 Advocacy and counselling services

All affected members and affiliates of the University can access various confidential advisory services, for example:

- The Women's Officers of the University (students and teachers)
- The Student Council (students)
- The Staff Council (employees in administration and teachers)
- The Academic Dean (students and teachers)
- The Equal Opportunities Officers (employees in administration)
- The advice centre for "Sexual harassment, discrimination and violence" of the Students' Union Munich (students)
- All persons with managerial and supervisory responsibilities

The people affected can do this whilst retaining their anonymity and also by using a third party they trust.

§ 5 Rights and obligations when making a complaint

All those affected have the opportunity of initiating a simple or a formal complaints procedure as desired. It must be guaranteed that by exercising this right of complaint, no personal or professional disadvantages will arise.

Confidentiality will be maintained regarding the person affected. Names may only be released with the agreement of the person affected.

Those affected should be encouraged not to accept disadvantage, discrimination, sexual harassment or violence, but to make their rejection of it unmistakably clear and to actively challenge it.

All persons with managerial and supervisory responsibilities are generally obliged to investigate any indication of disadvantage, discrimination or sexual harassment or violence, and if there are grounds for suspicion, to take suitable measures to clarify, pursue and prevent these.

The Women's Officers (for teachers and students) and the Equal Opportunities Officers (for employees in administration) will be included in the complaints procedure, whether or not the person affected objects.

§ 6 Complaints procedure

1. Simple complaints procedure

The simple complaints procedure can be instigated with the advocacy group listed in § 5 or with the superiors of the person affected or accused.

After registering the complaint an initial consultation will take place if possible by the relevant body with the person affected. This will cover information about rights, options for action and possible procedures and about the official complaints procedure in relation to these guidelines.

The relevant body in the context of a simple complaints procedure can subsequently initiate measures by recourse to § 7 of these guidelines. This introduces, as far as this is legally possible, a formal complaints procedure if this is urgently required against the background of the individual case, also taking into consideration the legitimate interests of the person affected. This is particularly the case when, in the opinion of the relevant body, the severity of the offence committed against these guidelines makes a prosecution urgently necessary or such a process is shown to be necessary to prevent further – not insignificant – infringements of the law.

2. Formal complaints procedure

A formal complaints procedure will be carried out by the University management. A formal complaint should be addressed to this body. This should be made in writing and should contain the following information:

- Description, place and date of the incident
- Persons involved
- Witnesses and evidence (as far as this is available)
- Information about measures already introduced
- Informed persons

The University management will inform the Women's Officer in the case of students and teachers affected, and the Equal Opportunities Officer in the case of employees in administration affected by the complaint.

The University management or the body charged with carrying out the procedure by the University management will examine the facts of its own motion. The requisite enquiries will be made and information obtained which document the essential procedural steps.

The University management will decide on the basis of the results of the procedures on further measures and possible sanctions according to § 7 of these guidelines.

Where necessary, in each stage of the procedure as well as measures according to § 7 of these guidelines, the University management will adopt or initiate such measures as are required in taking into consideration all interests in order to secure the requisite protection of the persons affected or people in general.

§ 7 Measures and sanctions

Measures cannot be based on an anonymous complaint.

1. Informal measures

Measures and sanctions in the case of contraventions of these guidelines depend on the civil service, contractual and University legal position of the person accused. The following informal measures may be considered, depending on the conditions and severity of the case, whilst maintaining the justifiable wishes of anonymity and protection measures of the persons affected:

- Personal conversation between the person affected and/or a person they trust with the person accused
- Personal conversation between a senior person and/or one of the named contact people with the accused, drawing attention to the ban on discrimination, disadvantage, sexual harassment and violence
- The involvement of external conflict advisors

2. Official measures

The University management can, in cooperation with the responsible body and according to the contractual employment, civil service or University legal position of the accused person and the severity of the accusation, consider the following steps.

In the case of an employee against whom allegations have been made:

- Holding a formal official meeting
- Verbal or written warning
- Written caution
- Termination with or without notice
- Filing of a criminal charge (in the case of a sex crime only after consultation with the person affected)

In the case of a civil servant against whom allegations have been made:

- Holding a formal official meeting
- Instigation of a disciplinary procedure and imposition of disciplinary measures which can include reprimands, fines, reduction in salary, redeployment or dismissal from service
- Filing of a criminal charge (in the case of a sex crime only after consultation with the person affected)

In the case of a student against whom allegations have been made:

- Verbal or written warning

- Ban on entering University premises
- Exmatriculation
- Filing of a criminal charge (in the case of a sex crime only after consultation with the person affected)

In the case of third parties against whom allegations have been made:

- Ban on entering University premises
- Filing of a criminal charge (in the case of a sex crime only after consultation with the person affected)

§ 8 Preventive measures

As an employee, the University is obliged according to the German Anti-Discrimination Act (AGG) to adopt preventive measures which contribute to the removal of taboos and raising awareness of the topic within the University, such as, for example:

- Extensive written information for employees about the legal requirements, the problematic nature of discrimination and sanctions
- Training courses and seminars on the topic of discrimination and abuse of power at all levels
- Provision of information and guidelines on what individuals can do if they observe discrimination or if discrimination is reported to them (through fliers, posters and on the website)
- Environmental and other conditions which favour sexualised discrimination and/or violence will be uncovered and eradicated as part of the framework of available options.

All members of the University will be given these guidelines for information and signature.

§ 9 Evaluation

The University management regularly checks whether the procedure can be improved to better suit its purpose with the aim of encouraging complaints, avoiding discrimination where a complaint has been made, and preventing discrimination, sexual harassment and violence at the University.

§ 10 Taking effect

These guidelines came into effect on 14 July 2016.

Issued on the basis of a resolution adopted by the University management dated 12 July 2016

Munich, 13 July 2016

Prof. Dr. Bernd Redmann
President

These guidelines were adopted on 13 July 2016 in the University of Music and Performing Arts Munich. This adoption was made public on 13 July 2016 by a notice displayed in the University of Music and Performing Arts Munich. The date of publication was therefore 13 July 2016.