

Guidelines on dealing with discrimination, sexual violence and harassment at Kiel University

of 26 May 2020

Based on Sections 3 (4), (5), and 14 (7) of the Schleswig-Holstein Higher Education Act (HSG) in the version of 5 February 2016, last amended by the Act of 13 December 2019 (GVObI. Schl.-H. p. 612), the University Board at Kiel University adopted the following Guidelines on 26 May 2020:

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Preamble

Kiel University is committed to providing a non-discriminatory, safe and non-violent place to study, teach, train and work in which everyone treats one another fairly, supportively and respectfully. For this purpose, Kiel University calls upon all its members to take responsibility for themselves and others and promotes a culture of seeing and naming discriminating, abusive or violent behaviour. From the viewpoint of those affected, it is important to maintain the highest possible level of safety and comprehensive protection as well as reinforce the right to sexual self-determination. Discrimination, sexual violence and harassment represent an invasion of personal privacy and a disruption to university operations. They create a degrading environment and can have a serious impact on health. They are a violation of obligations under public services law and higher education law and are punished as such. Individuals responsible for discrimination, harassment and sexual violence shall be held accountable for their actions. At the same time, they shall be enabled to permanently change their behaviour.

With these Guidelines, Kiel University stresses that it does not tolerate discrimination, sexual violence and harassment and that it respects the corresponding rights of individuals as defined in Section 1 (1). The purpose of these Guidelines is to raise awareness of this subject as well as highlight measures for prevention and procedures for intervention. The Guidelines also serve to detail how the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz - AGG) is implemented at Kiel University. Furthermore, Kiel University would like these Guidelines to be a contribution to the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence¹ and to the Lübeck Acceptance and Respect Statement², which it has signed.

Section 1 Scope of application

- (1) The scope of these Guidelines covers all members of Kiel University (Section 4 of the Constitution) as well as, in accordance with Section 6 (1) of the General Equal Treatment Act (AGG), all trainees or other individuals employed within the framework of their training as well as individuals carrying out work experience at Kiel University, job applicants and former employees.
- (2) These Guidelines apply to all areas of operation of the university.
- (3) They are also applicable to discrimination by third parties against individuals named in Paragraph 1, insofar as it relates to university operations.

Section 2 Definition of terms

- (1) Direct discrimination as defined in these Guidelines exists if individuals or groups of individuals experience less favourable treatment than another individual in a comparable situation experiences, has experienced or would experience, in particular for reasons of gender, religion or world view, a disability or chronic illness, social or regional origin, age, sexual identity or race. Indirect discrimination exists if what appear to be neutral provisions, criteria or procedures can particularly disadvantage other individuals for a reason stated in Sentence 1, unless the provisions, criteria or procedures concerned are objectively justified by a legitimate purpose and the means are appropriate and necessary in order to achieve this purpose. Multiple discrimination exists insofar as individuals in a situation are discriminated against for more than one reason at the same time. Discrimination as defined in these Guidelines includes both individual as well as structural discrimination.
- (2) Sexual violence as defined in these Guidelines is understood as all behaviours and actions that are discriminating, offensive or humiliating in a sexual or sexist respect and that result in the violation of the affected individual's dignity. Sexual violence may occur in physical, verbal, non-verbal as well as digital form or become manifest in violent attacks or assaults.

¹ The Istanbul Convention, as this Council of Europe Convention is known, entered into force in Germany in 2018. More information on this: <https://www.institut-fuer-menschenrechte.de/themen/frauenrechte/istanbul-konvention/> (last accessed on 08.08.2019).

² Kiel University has been a partner of the alliance "Echte Vielfalt. Bündnis für Akzeptanz und Respekt in Schleswig-Holstein" (Real diversity. Alliance for acceptance and respect in Schleswig-Holstein) since March 2015. More information on this: <https://echte-vielfalt.de/christian-albrechts-universitaet-cau-zu-kieltritt-buendnis-gegen-homophobie-bei/> (last accessed on 07.10.2019).

- (3) A particularly serious form of sexual violence, for example, is that directed against subordinates or any form of dependant and/or minors and/or is that associated with direct or subtle indications of a possible link between the fulfilment of (sexual) demands and an advancement or disadvantage in work life or student life.
- (4) Harassment is understood, in general, as the systematic hostile treatment, victimisation or discrimination of employees or students by one another or by managers and/or teachers. Harassment as defined in the General Equal Treatment Act (AGG) only exists if the harassment is due to a (presumed) AGG reason.
- (5) The definitions of terms set out here are designed to explain the scope of application of these Guidelines. They are not an exhaustive list, but serve to better clarify the cases covered by these Guidelines. The scope of application of these Guidelines also covers behaviours and actions that are understood as stalking. Stalking, as defined in Section 238 of the German Criminal Code (StGB), is the unauthorised, deliberate and repeated following, tracking, spying on or harassment of individuals named in Section 1 (1) against their will.
- (6) The definitions stated here also cover all forms of discrimination, sexual violence and harassment that occur digitally, for example, on social media channels run by Kiel University or on online learning platforms.

Section 3 General prohibition

Discrimination, sexual violence and harassment are prohibited. Due to their disruptive and damaging effect on university operations, they represent a violation of obligations under employment contract terms, public services law, civil service law and higher education law and may also be deemed criminal offences. Unequal treatment in the form of positive measures to compensate for or prevent discrimination is permitted as defined in Section 5 of the General Equal Treatment Act (AGG).

Section 4 Obligations of the University Management and of individuals with management duties

- (1) Kiel University has a duty to take appropriate measures to protect, support and encourage the individual(s) affected by discrimination, sexual violence and harassment to defend him/herself/themselves. The exercising of rights is not to result in disadvantages, see Section 612a of the German Civil Code (BGB).
- (2) Kiel University raises awareness among its members of the subject of protection against discrimination, in particular through further training offers.
- (3) Faculties, administration and central facilities are responsible for appointing specific contacts and for implementing appropriate measures in their departments.
- (4) For the implementation of these Guidelines, specific university officers and individuals with teaching, training and management duties in their department shall assist in encouraging everyone to treat one another respectfully and non-discriminatingly and protecting the integrity of all members, staff and students alike through exemplary behaviour and appropriate preventive measures. They shall also ensure that existing dependent relationships in study and work are shaped responsibly and not exploited. Should they become aware of discrimination, sexual violence or harassment, they may initiate measures in accordance with Section 7 or consult their immediate superior or an adviser in accordance with Section 7. Strict confidentiality must be maintained.

- (5) Kiel University endeavours to highlight these Guidelines to all new members of staff as well as in cooperation with external service providers.

Section 5

Raising awareness and prevention

For the purpose of raising awareness and prevention, the following measures, among others, are taken:

- a. ongoing accessible dissemination of these Guidelines among all members of Kiel University,
- b. provision of inclusive consultation services offering the opportunity for anonymous information and advice,
- c. provision of inclusive information services for individuals with managerial and training duties, in particular, in the form of training and further training opportunities,
- d. incorporation of this subject into inclusive further training offers, in particular, for managers and teachers,
- e. provision of inclusive information services and public relations work as well as measures for self-empowering action,
- f. integration of accessibility and safety in building concepts for the campus (e.g. avoiding use of spaces that generate feelings of anxiety).

Section 6

Consultation and complaints procedures

- (1) The consultation procedure comprises individual advice and support (Section 7 Informal procedure). The complaints procedure is a formal procedure and is defined according to the regulations of the General Equal Treatment Act (AGG) (Section 8). Unhindered access to the consultation and complaints procedure must be ensured.
- (2) The initial contact for the consultation procedure in accordance with Section 7 may be made by the affected individual or a third-party representative. Official channels do not have to be observed. In all cases, strict confidentiality must be ensured in the consultation procedure.
- (3) Possible points of contact for an informal procedure are:
 1. In general:
 - a. individuals with teaching, management and training functions,
 - b. members of the University Management and/or the Dean's Offices,
 - c. central and departmental diversity officers,
 - d. central and departmental equality officers,
 - e. the International Center.
 2. For employees:
 - a. Staff Council for Technical and Administrative Staff, Staff Council for Academic Staff,

- b. Representative Body for the Disabled,
 - c. Inclusion Officer,
 - d. Psychosocial Service.
3. For students:
- a. departmental student organisations,
 - b. members and advisers of the Student Union (AStA) as well as consultation partners of the Student Union (AStA),
 - c. officer for students with a disability/chronic illness.
- (4) The formal complaints procedure (Section 8) can be initiated at the AGG Complaints Office by individuals named in the Schleswig-Holstein Higher Education Act (HSG) and General Equal Treatment Act (AGG) within the framework of disadvantages based on race or ethnic origin, gender, religion or world view, a disability, age or sexual identity.
- (5) At any point in the informal or formal procedure, those affected may make use of further internal and external consultation services.

Section 7

Informal procedure: consultation

- (1) The informal procedure serves to advise and support those affected. It comprises the initial contact made at appropriate points of contacts (Section 6) and any further steps (Paragraph 2).
- (2) Later on in the informal procedure, the individuals confided in shall refer, if necessary, to internal and external advisers and contacts. In agreement with the individual concerned or his/her representative, possible further steps in the procedure include:
- a. accompaniment to further informal discussions,
 - b. recommendation of a professional mediator by a neutral third party,
 - c. referral to a psychosocial adviser.
- (3) In addition, individuals named in the Schleswig-Holstein Higher Education Act (HSG) and General Equal Treatment Act (AGG) may initiate the formal procedure at the AGG Complaints Office within the framework of disadvantages based on race or ethnic origin, gender, religion or world view, a disability, age or sexual identity.

Section 8

Formal procedure: complaints

- (1) The formal procedure serves to provide the office with information for reviewing the allegations and, if necessary, introducing further measures. This procedure can be initiated at the AGG Complaints Office, without a prior informal procedure, by individuals named in the Schleswig-Holstein Higher Education Act (HSG) and General Equal Treatment Act (AGG) within the framework of disadvantages based on race or ethnic origin, gender, religion or world view, a disability, age or sexual identity. The formal procedure can also be initiated by third party representatives, insofar as these have received a mandate to do so by individuals who have been discriminated against.

- (2) The formal procedure is initiated through written or verbal presentation of the facts by the complainant(s) or a legitimate representative to the AGG Complaints Office. Accompaniment by an adviser is possible at any time in accordance with Section 6.
- (3) The process is reviewed by the AGG Complaints Office at Kiel University. The accused individual or group of individuals shall be given the opportunity to respond to the complaint in an interview or in writing.
- (4) The Complaints Office shall investigate the facts of the case. It shall inform the complainant and, if necessary, University Management of the result of the investigation and if necessary, propose further measures.

Section 9 Sanctions

- (1) If necessary, Kiel University shall impose appropriate sanctions or initiate appropriate measures against employees and civil servants at Kiel University, insofar as further requirements for this are met under employment law or civil service law. For example, these can be:
 - a. a regulatory discussion,
 - b. verbal/written instruction/warning or caution,
 - c. reprobation,
 - d. exclusion from use (of certain) university facilities,
 - e. ban from entering premises (e.g. partial or temporary),
 - f. arrangement of appropriate courses and further training,
 - g. transfer to a different workplace at the university,
 - h. initiation of a disciplinary procedure,
 - i. ordinary/extraordinary (without notice) termination,
 - j. criminal complaint.
- (2) Depending on the severity of the action, the following sanctions may be imposed against students as well as all those named under Section 1 who are not employed by Kiel University:
 - a. verbal/written instruction/warning,
 - b. exclusion from use (of certain) university facilities,
 - c. exclusion from one/several lecture(s),
 - d. ban from entering premises (e.g. partial or temporary, also permanent in exceptional cases),
 - e. criminal complaint.
- (3) An action shall be classed as particularly serious, for example, if it involves the exploitation of dependent relationships. An action shall also be classed as particularly serious, for example, if it involves relationships in which a duty of care exists. Actions

that are taken in relationships in which duties of care exist are classed as particularly serious, for example, if exercised against minors.

Individuals as defined in Section 1 of these Guidelines must not be disadvantaged as a result of reporting a discrimination case based on a reason stated in Section 1 of the General Equal Treatment Act (AGG); this also applies if it is established that no disadvantage exists based on a reason stated in Section 1 of the AGG.

Section 10 Reporting and evaluation

All official consultation and complaints offices at Kiel University record case numbers as well as discrimination categories in anonymised form and taking into account all data protection regulations. The AGG Complaints Office reports to the University Board at least once a year on the fulfilment of its duties and on actual discrimination cases.

AGG Complaints Office, consultation offices, officers and representatives maintain a regular exchange of information – at intervals of at least once a year. This exchange is designed to provide reference points for the ongoing further development of the process and cooperation in terms of consultation, complaints and prevention measures. It aids the review and evaluation of these Guidelines and resulting measures and is, in principle, carried out in anonymised form.

Section 11 Entry into force

These Guidelines enter into force once they are signed.

Kiel, 26 May 2020

Professor Dr Lutz Kipp
President of Kiel University