



## Regulations on protection against sexual harassment at work and in studies at the University of Basel

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Dated September 22, 2015

Under Art. 10 of the statutes of the University of Basel, May 3, 2012, the Rectorate issues the following regulations.

### Part 1: General provisions

#### *Basis and applicability*

Art. 1. Sexual harassment is prohibited. Sexual harassment will be punished.

<sup>2</sup> These rules define the course of action in cases of alleged sexual harassment.

<sup>3</sup> These rules apply to all members of the university.

#### *Definition*

Art. 2. Sexual harassment is defined as sexual harassment in the more specific sense as described in para 2 and sexist conduct as described in para 3.

<sup>2</sup> Sexual harassment in the more specific sense is any unwanted sexual conduct that infringe the personal rights of the person concerned. This includes, in particular:

- a) punishable sexual acts and conduct
- b) sexual assaults, requests for sexual favors, inappropriate physical contact and intrusive behavior
- c) sexual advances linked with the promise of reward or the threat of adverse effects
- d) salacious comments and jokes, especially about appearance and physical attributes
- e) the display and distribution of pornographic material

<sup>3</sup> Sexist conduct is behavior with no direct sexual context that discriminates against or demeans persons on the grounds of their gender. This includes, in particular:

- a) offensive or disparaging comments and jokes about members of one gender
- b) the showing of images that express hostility towards the opposite sex
- c) demeaning treatment on the grounds of gender
- d) behavior that creates a hostile working environment for members of one gender

#### *Prevention*

Art. 3. Members of the university must treat one another with consideration and respect the personal boundaries of others.

<sup>2</sup> Members of the university who suffer sexual harassment must take reasonable steps to make it clear to the harasser that they feel harassed and that the behavior in question is undesirable.



<sup>3</sup> Members of the university who witness sexual harassment in the context of university activities must take reasonable steps to directly inform the harasser that such behavior is prohibited, or report the behavior to a contact person.

<sup>4</sup> In their jurisdiction, supervisors, lecturers and researchers are in principle responsible for maintaining a working atmosphere free from harassment and discrimination. They must intervene if they discover behavior that is in violation of these rules.

#### *Information and sensitization*

Art. 4. Members of the university will be informed of the content of these rules in an appropriate manner.

<sup>2</sup> Through awareness-raising activities and preventative measures, the University will maintain a working and learning environment in which sexual harassment is not tolerated.

## **Part 2: Measures and procedures**

### *Measures*

Art. 5. Measures will be taken against members of the university who commit sexual harassment based on the severity of their conduct.

<sup>2</sup> These measures are defined by the provisions that apply to the legal relationship between the guilty party and the university. They range from support measures to expulsion or dismissal.

<sup>3</sup> Measures taken by the university are independent of implementation of any criminal proceedings.

<sup>4</sup> Paras 1-3 apply analogously to persons who deliberately make false accusations of sexual harassment against another person or spread such rumors about another person.

### *Rights of persons concerned*

Art. 6. Persons affected by sexual harassment:

- a) are entitled to information from the contact person
- b) are entitled to advice and clarification from the investigator
- c) may take their concerns directly to the investigator

### *Duties of supervisors, lecturers and researchers*

Art. 7. If supervisors, lecturers, or researchers become aware of an incident, they must support the person concerned and refer them to the relevant investigator and contact person.

### *No repercussions for victims of sexual harassment*

Art. 8. The person concerned and anyone who reports a case of sexual harassment in line with Art. 3, paras 3 and 4 will not suffer any repercussions. In particular, no disadvantage shall occur in the employment relationship, studies or future academic work as a result of:

- a) boundary demarcation and refusal of advances
- b) recourse to advice and support

<sup>2</sup> This applies analogously to respondents and witnesses in any legal proceedings and to anyone who assumes responsibilities, fulfills tasks, applies for measures, decides on measures, or otherwise deals with sexual harassment under these rules.

<sup>3</sup> The person concerned may discontinue their work without any loss of income provided that it would be unreasonable for them to continue and if, despite having expressly reported the matter to one of the contacts or the investigator, reasonable and timely steps have not been taken.

<sup>4</sup> Protection against dismissal is set out in Art. 10 of the Swiss Gender Equality Act (GIG).

<sup>5</sup> This does not affect any other more extensive protection against dismissal.

### *Contacts*

Art. 9. The contacts are the equal opportunity and human resource managers or staff delegated by them, as well as a delegate from the University of Basel Student Union (skuba) and the Assistants' Association (avuba).

<sup>2</sup> Men and women are represented as contacts.

<sup>3</sup> The contacts are approved by the Rectorate for a term of two years. The term of office may be extended.

### *Responsibilities of the contacts*

Art. 10. The main responsibilities of the contacts include providing information about the investigation process, reporting the matter and referring the person concerned to the investigator.

### *Investigation process and investigators*

Art. 11. The investigation is carried out by the investigator. The investigator has legal training.

<sup>2</sup> The investigator is approved by the Rectorate for a term of two years. The term of office may be extended.

<sup>3</sup> The investigator has a proxy who meets the same requirements as the investigator and of whom the Rectorate is aware.

<sup>4</sup> If necessary, the investigator can involve the legal department of the university.

### *Responsibilities of the investigator*

Art. 12. The investigator must investigate the matter as soon as they are consulted as described in Art. 2, carry out the investigation with the relevant people and question anyone who can provide information.

<sup>2</sup> In consultation with the relevant member of the Rectorate, the investigator can consult experts and arrange psychological or psychiatric consultation at the request of the person concerned.

<sup>3</sup> Depending on the outcome of the investigation, the investigator shall apply for reasonable measures to be implemented in line with Art. 5. In severe cases, the investigator may apply for the initiation of an administrative investigation. The application is to be filed with the Rectorate.

### *Reports to the Rectorate*

Art. 13. The investigator shall file annual reports on their activities to the Rectorate.

### *Administrative investigation*

Art. 14. The Rectorate shall decide whether to initiate an administrative investigation, and determine the person responsible for the administrative investigation.

<sup>2</sup> The investigator may file the application for the initiation of an administrative investigation with the Rectorate.

<sup>3</sup> The administrative investigation shall be carried out by a qualified expert, who is not a member of the university. As part of the administrative investigation, the expert may implement necessary measures with the competent authorities.

<sup>4</sup> At the end of the administrative investigation, the Rectorate shall decide on the measures applied for in line with Art. 5.

### *Powers of the Rectorate*

Art. 15. The Rectorate is in principle responsible for decisions according to these rules.

<sup>2</sup> The Rectorate may appoint a member of the Rectorate, for a term of two years, to take responsibility for this matter on behalf of the Rectorate in line with these rules. The term of office may be extended. The responsible member of the Rectorate must consult with the Rectorate and report to it.

<sup>3</sup> The responsibilities of the Rectorate include, in particular:

- a) decisions related to engagement of experts at the request of the investigator
- b) decisions concerning appropriate measures as specified in Art. 5 at the request of the investigator
- c) decisions concerning arrangement of an administrative investigation at the request of the investigator
- d) decisions on whether the significance of the matter requires an administrative investigation without the request of the investigator, at the Rectorate's discretion
- e) decisions related to appropriate measures as specified in Art. 5 at the request of the administrative investigator
- f) verification of implementation and effectiveness of measures, and compliance with the prohibition against disadvantage

### *Procedures*

Art. 16. Unless these rules contain deviating provisions, the procedures and rights of all persons involved in the procedure are defined analogously by the provisions of the Law on Administrative Procedures and Jurisdiction (VRG) of the canton of Basel-Stadt.

### *Rights of the person concerned and the accused*

Art. 17. Both the person concerned and the accused are entitled to a legal hearing.

<sup>2</sup> In particular, they are entitled:

- a) to bring a companion to the investigation
- b) to be present during questioning of respondents or experts and during questioning of the person concerned or the person accused of sexual harassment
- c) to respond to statements by respondents and the person concerned
- d) to view and issue a statement at the end of the investigation

<sup>3</sup> If required by overriding interests of the university, the person concerned or third parties, the legal hearing and access to files may be restricted. In particular, the person concerned may request to be questioned in the absence of the accused. In this case, the accused may be represented by legal counsel during questioning.

### *Confidentiality*

Art. 18. The contacts, the investigator and the expert in charge of an administrative investigation are all bound to maintain confidentiality.

<sup>2</sup> In severe cases, these persons may apply to be released from their obligation to maintain confidentiality. The Rectorate and the legal department are responsible for such matters.

### *Procedural costs*

Art. 19. All procedures are free of charge with the exception of vexatious cases.

<sup>2</sup> On a case-by-case basis, the Rectorate may award the victim or the wrongly accused person compensation for their legal costs.

### *Final evaluation and decision process*

Art. 20. Investigations are to be concluded as quickly as possible, or within a maximum of four months of their initiation.

<sup>2</sup> The Rectorate shall reach a decision within 60 days of the end of an investigation.



*Communication*

Art. 21. At the request of and in consultation with the victim or the wrongly accused person, the outcome of the procedure may be announced in the working/learning environment of that person.

<sup>2</sup> When the outcome of the procedure is announced, the personal rights and other legitimate interests of all involved in the procedure are to be protected wherever possible.

**Part 3: Final provision**

*Effectiveness and repeal of guidelines*

Art. 22. These regulations are effective immediately.

<sup>2</sup> These regulations replace the guidelines for protection against sexual harassment dated June 19, 2000.