



## Guidelines on protection in case of sexual harassment, sexualized violence and discrimination at the Catholic University of Applied Sciences Freiburg

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## Foreword

With its protection concept, the KH Freiburg seeks to combat discrimination based on racism, ethnic origin, gender, religion or ideology, disability, age or sexual identity (AGG § 1), as well as forms of sexual harassment or sexualized violence.

The KH Freiburg would like to encourage affected persons not to accept sexual harassment, sexualized violence and discrimination, but to make their rejection unmistakably clear. These guidelines standardize the procedural rules with which the KH Freiburg supports affected persons in actively defending themselves when their dignity and rights are violated. According to the *Landeshochschulgesetz* (LHG – state law regulating institutions of tertiary education) § 4a para. 4, the guidelines apply to KH Freiburg employees and students.

## What are sexual harassment and sexualized violence?

Sexualized violence includes all forms of sexual abuse/assault, coercion, rape, sexual harassment, forced sexual/physical contact and sexually-motivated stalking. It is about sexually motivated acts that occur against the will of the affected person and can violate their sexual self-determination and dignity.

By sexual harassment, we mean unwanted, sexually determined behavior that has the purpose or effect of violating another person's dignity, especially when it creates an environment characterized by intimidation, hostility, humiliation, degradation or insult.

Forms of sexual harassment can include:

- Distributing pornographic images
- Soliciting sexual acts;
- Insinuating or ambiguous remarks about appearance and/or clothing;
- Remarks and jokes of a sexual nature;
- Unwanted presents, persistent and undesired attempts for contact, solicitation and/or unwanted invitations with clear intent;
- Advances with the promise of benefits or threats of disadvantages;
- Undesired physical contact or solicitation for such contact.

Sexual harassment and sexualized violence can affect all genders: female, male, trans\* and intersex people. When a case of sexual harassment is reported, those affected will find support in the same way.

## What is discrimination?

Discrimination is understood to be direct or indirect forms of disadvantaging or treating someone unfairly/unjustly based on race, ethnic origin, gender, religion or beliefs, disability, age or sexual identity (see AGG § 1 the German General Equal Treatment Act). Discrimination can originate from persons who treat others in a degrading manner and also have institutional causes.

Discrimination is practiced in many different ways. It happens verbally, non-verbally and through physical attacks. Discrimination and violence includes all behaviors and actions that are insulting, humiliating, not desired by people who are affected or which they experience as devaluing and degrading. This understanding includes the threat of violence.

Discrimination on the basis of gender is sexual discrimination, as it can promote sexualized violence. Sexual discrimination is not only about sexuality, but also power. It concerns exercising

power over dependents/subordinates and/or humiliating people. In this context, sexual disadvantage can combine with sexualized violence.

Discrimination and violence are experienced differently from person to person and can be accompanied by those affected feeling self-doubt, guilt and deep shame. Some people remain silent out of fear. The University offers support to its employees and students to empower them to actively defend themselves against discrimination..

### **Contact persons according to § 4a LHG at the KH Freiburg**

In accordance with § 4a of the state law for institutions of higher learning (*LHG*), the University designates contact persons for questions and concerns about sexual harassment, sexualized violence and antidiscrimination. The contact persons consist of one woman and one man each from the university administration, student body and faculty. When fulfilling their function as a contact person, these KH Freiburg students and employees act independently of their other University role(s). The Equal Opportunity Officer and/or their deputy can also act as a contact person.

### **Complaint office at the KH Freiburg**

Attached to the function of the Equal Opportunities Officer is a complaints office, which is responsible for processing all complaints. The Complaints Office is composed of the Equal Opportunities Officer or their deputy, as well as the University Administration, consisting of the Rector and the Chancellor.

### **Procedural regulations**

Affected persons can select a contact person and contact them individually via the ["Diversity and Equality" website](#).

The contact persons deal with any concerns and questions about sexual harassment, sexualized violence and discrimination, including indications of potential dangers at the university, in order to counteract these at an early stage and in a preventive manner. The contact persons are obliged to treat the information entrusted to them confidentially. The Equal Opportunity Officer will be informed of any concerns, while preserving the anonymity of the affected person.

When an affected person or their authorized representative approaches a contact person, the contact person will listen to the person affected and then advise them about protective measures they can take and on possible ways of proceeding further. Affected persons may be accompanied by a person they trust. The contact person records the contents of the initial interview and makes an assessment of the severity of the accusations or incident. After an initial conversation, various procedures are possible, both informal and formal ones.

## Informal measures

Informal measures include various possibilities that preserve the anonymity of the person affected in case this is their wish. For example, the contact person can have a conversation with the alleged harassing person. Informal measures may also include a discussion between the person affected and the harassing person in the presence of the contact person or the involvement of the affected person's superior.

If the issue cannot be resolved through informal measures, a formal process can be carried out. For this purpose, the Complaints Office at the KH Freiburg should be contacted.

## Formal Process

Affected persons have the right to lodge a complaint within the framework of a formal procedure. The procedure is confidential, but is formally initiated with the lifting of anonymity. The Complaints Office ensures the greatest possible protection for the person affected.

Once the Complaints Office is involved, a multi-stage procedure<sup>1</sup> provides for the following steps.

## Receiving a complaint and determining the situation

- The complaint is to be made in writing or given orally for recording. In the case of an oral statement, the complaint transcript shall be submitted to the affected person for them to review and subsequently sign.
- The complaint must describe the events that are perceived as disadvantageous and discriminatory. Any witnesses and, if applicable, further evidence must be provided. It must also be documented which other persons have already been informed about the incident(s) and whether measures have already been initiated.
- The situation or state of affairs is determined by interviewing the person affected. Colleagues, fellow students and superiors may also be consulted if the investigation of the facts so requires.
- The accused shall be given the opportunity to make a statement. Their statement, which may be provided orally or in writing, shall be made known to the person affected as part of the complaint procedure.
- Information about the personal and factual circumstances of the person making the complaint or being accused may not be passed on to third parties or otherwise used without the person's consent. The German law against discrimination/disadvantaging applies (Section 16 AGG) applies: Employees who file a complaint may not suffer any disadvantages as a result, regardless of whether the complaint is justified or unfounded.
- The interviews are conducted separately. Possible evidence that could be an indication of discrimination, such as emails with sexually harassing content, is also examined. However, the proceedings will also continue without evidence.
- The Complaints Office may call in external expert advice, subject to the consent of the affected person.

<sup>1</sup> Procedures and procedural bases are based on the expert reports of the *Antidiskriminierungsstelle des Bundes* (Federal Anti-Discrimination Agency) (2010; 2015) as well as on the procedural descriptions proposed by the *Bundeskonzferenz der Frauen- und Gleichstellungsbeauftragten an Hochschulen e.V.* (Federal Conference of Women's and Equal Opportunity Representatives at Universities e.V.) (Bukof o.J.; 2018).

## Complaint investigation and KH Freiburg administration intervention

- The Complaints Office investigates whether the facts as determined constitute a case of sexual harassment, sexualized violence or discrimination. The Equal Opportunity Officer informs the person affected in writing of the result of the investigation (cf. AGG § 13, Right of Complaint).
- **When a case of sexual harassment, sexualized violence or discrimination is determined**, duties of the University Administration are triggered according to § 12 [Measures and duties of the employer] para. 3 and 4 AGG Intervention Obligations of Universities. According to § 4a LHG, § 12 paras. 3 and 4 apply accordingly to university members and associates who are not employees. Immediately and independently of further proceedings, provisional measures are taken to protect the person affected should they so desire.
- The supervisor is responsible for the appropriate intervention. If students or teachers are affected, the rector is responsible. If administrative employees are affected, the chancellor is responsible.
- Measures and sanctions depend on the position of the accused in terms of service, employment or university law. Possible consequences are, for example, the conduct of a formal interview, warning, transfer or dismissal, exclusion from teaching events, withdrawal of a teaching assignment, exclusion from the use of university facilities, ban from the premises, exmatriculation. Notwithstanding the right of the harassed person to file a criminal complaint against the harassing person, the university may also file such a complaint.
- If a student violates the dignity of another person through sexual harassment in the sense of § 3 paragraph 4 of the AGG, this can result in the threat of exmatriculation, exclusion from the use of the university facilities, exclusion from participation in a single course for up to one semester or exmatriculation. **The decision is made by the Regulations Committee appointed by the Senate.**
- University Administration will act according to the conditions and the severity of the individual case and while respecting the anonymity wishes and protection needs of the person affected.
- **Should it be determined that no sexual harassment, sexual violence or discrimination occurred**, the formal procedure will be terminated. However, the university Administration reserves the right to take further steps to deescalate the situation. Conceivable is the use of mediation talks between the conflict parties, which are led by the Complaints Office.

## Confidentiality

Confidentiality has the highest priority, because the process can have serious consequences for all those involved.

- Within the framework of informal measures, the person affected has an unrestricted right to anonymity. The contact persons are obliged to treat the report confidentially and to make it anonymous at the request of the affected person. The name of the person affected and of the accused must not be made public. If formal proceedings are initiated, the complaints office shall ensure the greatest possible protection.
- Should formal proceedings be initiated, the name of the affected person may only be disclosed to the accused person when this information is indispensable to the accused's appropriate statement/testimony and defense.
- It must be ensured that the person affected and the contact person they have chosen do not suffer any personal or professional disadvantages.

- All steps should be taken with the consent of the affected person. However, if there is reasonable suspicion that other persons are at risk, or if a criminal act is suspected, the University Administration can or will act **even without the consent of the person affected**. However, the person affected is to be informed in advance and assured of appropriate protection.
- The disclosure of personal data within and outside the university is only permitted either with the consent of the person affected or if there are reasonable grounds for suspecting that other persons are at risk or in order to fulfill a legal obligation of the University Administration.

## Protection of minors

Supplementary to the aforementioned protections, the *Regulations for Dealing with Sexual Abuse of Minors and Adults in Need of Protection or Assistance by Clerics and Other Employees in Church Service* and the *Framework Regulations - Prevention of Sexual Violence against Minors and Adults in Need of Protection or Assistance in the Area of the German Bishops' Conference*, as published (in German) in the Official Gazette of the Archdiocese of Freiburg, are recognized and applied.

## Additional advice

The University shall endeavor, within the scope of its possibilities, to provide psychological and legal advice to the affected persons. In addition, psychotherapeutic counseling at the *Studierendenwerk* (Students' social services) Freiburg is recommended ([www.swfr.de/beratung-soziales](http://www.swfr.de/beratung-soziales), phone 0761 2101-269).

A comprehensive and up-to-date list of other external counseling services can be found on the website of the KH Freiburg under the heading "Equal Opportunities."

The protection concept is constantly being further developed in the responsible committees. Among other things, it is being updated with an effective prevention concept that aims to prevent sexual harassment, sexualized violence and discrimination from occurring at our University in the first place. The prevention concept is designed to identify potential risks and prevent their manifestation at an early stage through effective countermeasures.

## Literature

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The policy applies as of September 1, 2021.

Freiburg, June 30, 2021

Prof. Dr.in Stephanie Bohlen  
Rector

Martin Kraft  
Chancellor

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