

**Freie Universität Berlin's Regulations
on Sexualized Harassment, Discrimination, and Violence**

of November 12, 2019

1. Preamble

On November 12, 2019, the Executive Board approved the following new Regulations on Sexualized Harassment, Discrimination, and Violence as supplemental regulations to the Guidelines on the Promotion of Women at Freie Universität Berlin of February 17, 1993 (*FU-Mitteilungen* 17/1993):

1.1

Freie Universität Berlin is committed to a working environment where all people, at whatever operational level, enjoy the same rights whether in the area of teaching, research, apprenticeships and training, administration, or self-governance. The university is dismantling unequal structures within degree programs, within academic qualification processes (e.g., PhD, Habilitation), and within the work environment at the university. It is contributing to implementing equality of opportunity in alignment with the Berlin Higher Education Act (BerlHG), the Berlin State Gender Equality Act (LGG), the General Act on Equal Treatment (AGG), and the Guidelines on the Promotion of Women at Freie Universität Berlin (FFR). The university values a working environment built on the principles of trust and cooperation, where studying and working can take place in a supportive atmosphere.

1.2

University structures are inherently characterized by an unequal balance of power, whether this is within the relationship between supervisors and their students or through working hierarchies. Because of their inherent structural inequality, such relationships are vulnerable to abuse. Sexualized harassment, discrimination, and violence on the grounds of sex and gender identity represent central risks at universities.

Within its scope of responsibility as defined under Section 1.5 below, Freie Universität Berlin is committed to protecting and respecting the personal rights and individual personal boundaries of people who work and study at the university. Sexualized harassment, discrimination, and violence are an infringement of personal rights. They also seriously endanger university operations. At work or in everyday communication between members of the university, they create an intimidating, stressful, and demeaning atmosphere for working and learning. This can lead to those affected experiencing significant health problems. Sexualized harassment, discrimination, and violence represent a violation of contractual obligations, labor law, and university regulations, and are to be addressed accordingly.

1.3

Sexualized harassment, discrimination, and violence will not be tolerated at the university nor in situations outside the university where university members are involved in their professional capacity. All persons who fall within the scope of applicability of these regulations as described in Section 1.5, but especially those with educational, supervisory, and management responsibilities in teaching, research, apprenticeships, administration, and self-governance, have a duty of care to their staff, students, and/or trainees. As such, they are responsible for ensuring that sexualized discrimination and violence do not occur or are stopped. Sexualized harassment, discrimination, and violence perpetrated within a work or study context where one person is dependent on another and is

threatened with personal or professional harm if they do not comply, or is offered rewards for compliance, are viewed as particularly serious.

1.4

Field trips, business travel, and other study and research-related situations that take place outside the Freie Universität Berlin campus represent a particular risk for sexualized harassment, discrimination, and violence. To make participants aware of this risk, and as a preventive measure, specific guidelines and/or binding agreements will be put in place for all members of the university, including guests, who are likely to participate in business travel or off-campus events. In addition, specific training in the prevention of sexualized harassment, discrimination, and violence in off-campus situations will be offered to all instructors and supervisors.

1.5

These regulations apply to all members of Freie Universität Berlin, and to persons who are spending time as guests at Freie Universität Berlin, especially scholarship holders, guest auditors, auditing students (*Nebenhörer*), and visiting lecturers who do not work for Freie Universität Berlin in a capacity that falls under Section 113 BerlHG. They are also applicable to situations involving sexualized harassment, discrimination, and violence committed by or inflicted upon third parties on university premises where at least one person falls into one of the categories listed above.

2. Forms of sexualized harassment, discrimination, and violence

Sexualized harassment, discrimination, and violence are defined as behaviors in relationship to sex and/or gender, expressed in verbal, nonverbal, or physical form, that have the effect of violating the affected person's dignity, in particular through the creation of an environment that is characterized by intimidation, hostility, belittlement, and humiliation or where a person is subject to offense or distress. Sexualized harassment, discrimination, and violence can also take place via digital media.

Sexualized harassment, discrimination, and violence may include

- Sexualized actions and behaviors punishable by law
- Causing someone to be treated less favorably or belittling them because of their sex, sexual orientation, or gender identity
- Other sexualized actions and behaviors, such as, for example
 - Sexualized and demeaning use of language
 - Gestures and nonverbal comments with a sexual component
 - Sexualized, indecent remarks, jokes, whistles, comments about a person, their appearance or body
 - Addressing someone in a sexist way (including the use of "pet names") and offensive remarks
 - The verbal, visual, or electronic depiction and distribution of pornographic or sexist images
 - Unwanted advances or demands
 - Unwanted touching or other forms of overstepping boundaries
 - Repeated unwanted following (stalking/cyberstalking¹) and coercion with a (direct or indirect) sexual component
 - Asking a person to perform sexual acts
 - Inappropriate, unwanted physical contact and physical assault.

¹Cyberstalking is an extreme form of stalking/following a person over an extended period of time that primarily takes place via digital media.

This is not an exhaustive list. There is no one single definition of what constitutes sexualized harassment, discrimination, and violence and what does not. It is for the affected person to decide where their own boundaries lie.

3. Accessing counseling and submitting a complaint

3.1

Freie Universität Berlin is aware of and fulfills its duty of care to all persons defined under Section 1.5 by making counseling available for affected persons and those whom they have chosen to take into their confidence. Complaints may be submitted to the university, and the university is responsible for implementing the complaints procedure.

Those affected by sexualized harassment, discrimination, and violence are encouraged to report incidents, seek help, and submit complaints. Those not directly affected but who witness or become aware of such incidents are encouraged not to look away but to offer help to those affected. No disadvantages will arise for anyone who reports such incidents or makes them otherwise known. You do not have to give your name when reporting an incident or situation.

3.2

The Chief Gender Equality Officer, the local Gender Equality Officers (within departments, central institutes, central facilities, the University Library, or the central university administration), the staff representatives, the Office of Social Counseling, the Center for Academic Advising and Psychological Counseling, and other persons entrusted by the Executive Board of Freie Universität Berlin with the task of advising on sexualized harassment, discrimination, and violence are legally obligated to treat information confidentially. They may act as a first point of contact for obtaining confidential counseling. They can also give advice and support on submitting a formal complaint and accompany the person making the complaint through the procedure. Counseling can also take place anonymously.

3.3

You can contact anyone who occupies a managerial or supervisory role at Freie Universität Berlin if you wish to make a complaint relating to a specific incident (or series of incidents). Employees of Freie Universität Berlin can submit complaints to the Complaints Officer under Section 13 of the General Act on Equal Treatment (AGG).

Employees whose tasks include responsibility for personnel-related issues, especially those with line management and supervisory responsibilities, who become aware of incidents of sexualized harassment, discrimination, and/or violence, have a duty to follow up factual indications of such incidents at their earliest opportunity and to take appropriate steps to find out what has happened, to pursue incidents that have occurred, and prevent similar incidents occurring in the future. The wishes of those affected will be taken into account in line with these regulations. It is to be ensured that the steps taken do not result in personal, professional, or education-related disadvantages to the person who has submitted the complaint. The perpetrator of sexualized harassment, discrimination, and violence is fully responsible for these actions, not the person who has been affected by them. An individual's right to defend themselves from sexualized harassment, discrimination, and violence alone or with the support of another person of their choice, without involving university contact points, remains unaffected. However, should any claim to compensation arise from sexualized harassment, discrimination, and violence (for example, a claim to continuing pay during sickness absence or to additional financial support), the relevant personnel department must be informed. In dealing with minors, compliance with child protection legislation requirements will be ensured.

4. Measures to be taken and sanctions that may be imposed following an official complaint

Once a complaints procedure has been initiated, specific steps will be taken.

4.1

Depending on the severity and the circumstances of the individual incident, the relevant university authorities may put one or more of the following measures in place:

- a meeting between the person who has submitted the complaint with a person who is responsible for personnel-related issues, preferably a person with line management/supervisory responsibilities;
- a meeting between a person who is responsible for personnel-related issues, preferably a person with line management/supervisory responsibilities, and the person accused of sexualized harassment, discrimination, and/or violence. At the meeting, the accused person will be made aware that such actions represent an infringement of university guidelines and legislation;
- a meeting between the person submitting the complaint, the accused person, and a person who is responsible for personnel-related issues, preferably a person with line management/supervisory responsibilities.

The person who has brought the complaint may be accompanied by a person of their choice to support them, or may ask that their support person attend the meeting in their stead as their representative.

4.2

If the steps named in Section 4.1 are not successful in resolving the complaint, or are deemed insufficient or inappropriate in light of the severity of the incident(s), then according to the circumstances of the specific case one or more of the following measures may be taken. In these cases, university management must first be informed and may take an active role in the proceedings. The conditions and procedures related to the sanctions named below must be carried out in line with the relevant guidelines and legislation.

- An official hearing
- Compulsory attendance at anti-discrimination training
- An oral or written instruction
- A written reprimand or warning
- Initiating a disciplinary procedure
- Moving the person to a different place of work within the university
- Termination of employment with or without notice
- Excluding the accused person from attending classes
- Prohibition of teaching activities
- A ban on using university facilities
- Exclusion from university premises
- Removal from the register of students (*Exmatrikulation*/termination of degree program)
- A criminal charge

5. Raising awareness and preventive measures

5.1

Freie Universität Berlin has put measures in place to raise awareness of and to prevent sexualized harassment, discrimination, and violence at the university. Informational materials about how to deal with sexualized harassment, discrimination, and violence are reviewed and published throughout the

university on a regular basis. A code of conduct is currently in development that will apply to all persons who fall into a category listed under Section 1.5 above.

5.2

The Executive Board of Freie Universität Berlin shall appoint a standing working group for the prevention of sexualized harassment, discrimination, and violence. The standing working group shall meet at regular intervals. The group shall comprise at a minimum the Chief Gender Equality Officer, one local Gender Equality Officer (from a department, central institute, central facility, the University Library, or the central university administration); the member of the Executive Board with responsibility for equality and diversity; representatives from the personnel department; the person responsible for dealing with complaints brought by employees under the General Act on Equal Treatment (AGG); a psychologist with special expertise in this area from the Center for Academic Advising and Psychological Counseling; the Head of the Office of Social Counseling; representatives from the staff councils, the Youth and Apprentices Representatives, and from Counseling for Women at the General Student Council; the representatives for individuals with disabilities; and four representatives from the deans' offices representing the four subject groups (including veterinary medicine). The standing working group shall also include other persons appointed by the Executive Board to address sexualized harassment, discrimination, and violence. The overall management of the standing working group lies with the office of the Chief Gender Equality Officer.

The task of the group is to raise awareness of the subject of sexualized harassment, discrimination, and violence and to ensure that it can be freely discussed within the university. Based on the experience and expertise of those working in university counseling (see Sections 3.1 and 3.2), the group shall develop concrete measures to be put in place, for example in the area of internal and external communication, along with internal training programs (especially for staff with management and teaching functions). Its responsibilities also include advising university boards and committees and people working at senior management level. The group develops and maintains the relevant central website and submits an annual report on its work to the Executive Board. It also has an advisory function in relation to construction projects on the campus of Freie Universität Berlin and other measures taken to minimize risk and uncertainty on campus. The members of the standing working group have an obligation to maintain confidentiality in relation to the personal affairs of anyone who falls into a category listed under Section 1.5, where such affairs have come to their attention as a result of their membership in the working group, and likewise in relation to any information or incidents that because of their content or significance require confidential treatment. This obligation extends beyond the term of their membership in the standing working group. However, if a person in a category listed under Section 1.5 has given their consent to the sharing of information, this obligation need not apply in relation to the Executive Board nor to heads of organizational units.

5.3

These regulations are to be published. Persons who are newly appointed to official functions or newly employed, take up new positions (including visiting lecturers, researchers, or students), or begin a program of study at Freie Universität Berlin will be made aware of the regulations in an appropriate form. The regulations, the relevant central website, and the code of conduct shall be translated into English and published. In case of any doubt, the German version of these regulations is binding. Members of Freie Universität will be regularly reminded of the regulations, the website, and the code of conduct.

6. Publication and entry into force of these regulations

These regulations enter into force on the day following their publication in *FU-Mitteilungen* (the official bulletin of Freie Universität Berlin). With their publication, they replace the Freie Universität Berlin Regulations on Dealing with Sexualized Discrimination and Violence of February 9, 2015 (*FU-Mitteilungen* 4/2015, p. 92), which thereby lapses.