



**Guidelines on preventing and dealing with cases of discrimination,
harassment and sexual harassment
at Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU)
and Universitätsklinikum Erlangen (UKER)**

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The English translation of this guideline has been worded carefully. However, errors cannot be completely excluded. Only the official German text available at the FAU webpage is the version that is legally binding.

Preamble

Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU) and Universitätsklinikum Erlangen (UKER) are committed to preventing discrimination, harassment and sexual harassment to ensure that equal treatment of all individuals. Bearing this in mind, FAU and UKER pledge to create an environment where individuals can study, work and carry out research without experiencing disadvantages or harassment for reasons of gender, race or ethnic origin, age, disability or chronic illness, sexual orientation, religion or belief. In addition to the types of discrimination stated above, FAU and UKER also condemn discrimination on the basis of social background or social status. FAU and UKER promote a culture based on treating others with respect, where each and every individual is valued and ignoring discrimination is not tolerated. They actively strive to protect against and prevent discrimination, harassment and sexual harassment. All reported instances of misconduct shall be rigorously pursued. In the interest of upholding these values, the Executive Board of FAU and the Board of Directors of UKER have published the following guidelines.

Section 1 Objectives

These guidelines ensure that cases of discrimination, harassment and sexual harassment are dealt with transparently at FAU and UKER. They set out rights and obligations and name initial points of contact and counselling services available to those affected. They detail a structured procedure for filing an official complaint and outline a catalogue of sanctions and preventative measures.

Section 2 Scope

- (1) These guidelines shall apply to all members of staff and trainees at FAU and UKER and to all students enrolled at FAU. They shall also apply to external parties who are associated with both organisations such as interns, visiting researchers, observers, seminar participants, doctoral candidates, scholarship holders, external teaching staff and people involved in application or appointment procedures. The guidelines shall also govern how members of staff ought to behave towards patients, their relatives and employees from external companies working for FAU and UKER.
- (2) These guidelines shall apply to cases of discrimination, harassment and sexual harassment if at least one of the parties involved is a member of a group stipulated in (1).
- (3) These guidelines shall apply across all premises of FAU and UKER (that is, in all property they own or rent) and all external branches thereof. They shall also apply during business trips, at official and online events or platforms organised by FAU or UKER and when carrying out duties relating to university or hospital business.

Section 3 Definitions

Discrimination

- (1) Discrimination is when someone is treated unfairly or placed at a disadvantage due to one or more grounds which are subject to legal protection. Section 1 of the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG) prohibits discrimination on the grounds of gender, race

or ethnic origin, age, disability or chronic illness, sexual orientation and religion or belief. When determining whether or not discrimination has taken place, it is the outcome which counts, irrespective of the motive or whether or not it was intentional. Acting without exercising due consideration or following established procedures that are discriminatory (for example, in general administrative affairs) may count as an act of discrimination.

- (2) Direct discrimination shall be taken to occur where one person is treated less favourably, in respect of one or more of the grounds referred to in (1), than another person is, has been, or would be treated in a comparable situation. Direct discrimination on the grounds of gender shall also be taken to occur in cases where a woman experiences unfavourable treatment due to being pregnant or a mother.
- (3) Indirect discrimination shall be taken to occur where apparently neutral provisions, criteria, or practices would put persons at a particular disadvantage compared with other persons due to one or more of the grounds referred to in (1).
- (4) Discrimination as defined in (1) to (3) is not taken to occur if the disadvantage is objectively justified by a legitimate aim and the means of achieving that aim are reasonable and necessary.

Harassment

- (5) Harassment is where unwanted conduct related to one or more of the grounds referred to in (1) has the purpose or effect of violating the dignity of the person concerned. This is particularly the case if behaviour creates an environment characterised by intimidation, hostility, humiliation, degradation or insult.

Sexual harassment

- (6) Sexual harassment is any sexually motivated conduct that has the purpose or effect of violating the dignity of the person concerned, in particular when it creates an intimidating, hostile, degrading, humiliating, or offensive environment. This includes unwanted sexual acts and prompting to conduct such sexual acts, sexually motivated physical contact, remarks with sexual content and unwanted showing or posting of pornographic content.

Sexual harassment may take different forms. They include:

- Photographic images or verbal comments of a sexual nature
- Sexist or sexually explicit advertising
- Sexist or sexualised communication, no matter which form it takes, such as sexually motivated staring, depicting derogatory gender stereotypes, sexually degrading language
- Unwanted and unnecessary physical contact
- Unwanted sexual advances
- Sexually motivated actions constituting an offence, such as coercion, stalking or mental and/or physical abuse.

Section 4 Principles

- (1) By setting out these guidelines, the Executive Board of FAU and the Board of Directors of UKER aim to create an environment conducive to working and studying characterised by respect and freedom from

discrimination, and call on all members and employees to make their own constructive contribution to achieving this goal. They condemn all forms of discrimination, harassment and sexual harassment. This is particularly applicable when those in a position of responsibility exploit their status to subject members of staff, trainees or students, who report to or are dependent on them, to discrimination, harassment or sexual harassment and in cases in which benefits or disadvantages at work or whilst studying are implied or enacted based on their (sexual) demands. By issuing these guidelines and implementing preventative measures and sanctions, the Executive Board of FAU and the Board of Directors of UKER ensure that people are protected from discriminatory behaviour.

- (2) Managers and people assuming managerial, training and qualification tasks in administration, training, research and teaching are in a particular position of responsibility for safeguarding the welfare of those who report to them. They are responsible for preventing discrimination, harassment and sexual harassment in their area of responsibility and will take suitable preventative measures if and when necessary. If they receive reports of incidents of this nature, they shall take steps to stop the acts of discrimination, harassment or sexual harassment, acting predominantly in consultation with the person affected. They shall advise affected individuals of their right to counselling services pursuant to Section 6 and the possibility of submitting a formal complaint pursuant to Section 7. These people in positions of responsibility as defined in sentence 1 can also seek advice from the initial points of contact and counselling services (see Section 6), as well as from the complaints office at FAU and UKER (see Section 7).
- (3) Those who are not directly affected are called on to remain vigilant with respect to discrimination, harassment and sexual harassment, to provide assistance to anyone who is affected and to help them find a solution.
- (4) All persons named in Section 2 (1) can contribute to ensuring that FAU and UKER are and remain places where people can work, train and study in an atmosphere of mutual respect, open-mindedness and equal treatment.

Section 5 Right to file complaints

Each person pursuant to Section 2 (1) of these guidelines who feels discriminated against, or who experiences harassment or sexual harassment is entitled to file a complaint with the complaints office (see Section 7). Anyone affected by discrimination, harassment or social harassment is expressly urged not to accept their situation, but to take appropriate measures to prevent it. FAU and UKER shall ensure that anyone who files a complaint shall not be disadvantaged in any way for exercising their right to complain.

Section 6 Points of contact and counselling services

- (1) Any person pursuant to Section 2 (1) who feels discriminated against or experiences harassment or sexual harassment can contact the relevant initial points of contact, counselling services or a representative body at FAU or UKER for confidential advice and support:

FAU

Students

- University/Faculty women's representatives
- Office of Equality and Diversity
- Counselling services from Student Services Erlangen-Nürnberg
- Students' Representatives / Working Group Against Discrimination and Racism (AntiDisRa) / Queer Working Group (initial consultation, with advice on how to pursue the matter further)
- International Affairs: Advice for international students
- Disability liaison officer
- Occupational medical service (Faculty of Medicine)
- Family Service

Academic or research staff

- University/Faculty women's representatives
- Office of Equality and Diversity
- Staff Council
- Council for Academic Staff
- Commission for Research Conflict Management
- University Counselling Service
- International Affairs: Welcome Centre for international researchers and doctoral candidates
- Disability liaison officer
- FAU inclusion officer
- University medical team (Betriebsärztlicher Dienst)
- Family Service

Administrative staff

- Equal opportunities officer
- Staff Council / Representatives of Trainees and Young People
- FAU Conflict Management Team
- University Counselling Service
- Disability liaison officer
- FAU inclusion officer
- University medical team (Betriebsärztlicher Dienst)
- Family Service

UKER

Research staff

- Women's representative at the Faculty of Medicine
- Staff Council
- Disability liaison officer

- UKER inclusion officer
- University medical team (Betriebsärztlicher Dienst)
- Family Service

Administrative staff at UKER

- Equal opportunities officer
- Staff Council / Representatives of Trainees and Young People
- Disability liaison officer
- UKER inclusion officer
- University medical team (Betriebsärztlicher Dienst)
- Family Service

- (2) The initial points of contact and counselling services at FAU and UKER provide confidential initial and referral advice.¹ In the initial meeting, they discuss the issue with the person affected by discrimination, harassment or sexual harassment, explore the extent to which support is required, and they can advise individuals how to pursue the matter further. They offer information about preventative measures and appropriate actions, explain the arbitration procedure (see Section 5) and the official complaints procedure (see Section 7). If necessary, they can refer those seeking advice to other suitable, specialist internal or external advisory and support services or arrange an appointment for them.
- (3) Individuals affected by discrimination or harassment are entitled to bring someone they trust to the consultations, even if this person does not belong to FAU or UKER.
- (4) As well as the points of contact and counselling services at FAU and UKER (see (1)) and the official complaints office at FAU and UKER (see Section 7 (2)), those affected may also choose to turn to external counselling services or other people they trust. A list is available on FAU Office of Equality and Diversity website and the human resources department website at UKER.
- (5) *FAU:* If circumstances warrant it, the initial points of contact and counselling services at FAU may advise those affected to pursue arbitration with the Commission for Research Conflict Management or the FAU Conflict Management Team. If the defendant is a student, the arbitration shall be conducted by the Dean of Studies at the respective faculty. This arbitration procedure shall be initiated by the arbitration bodies responsible and can only proceed if both conflicting parties agree.
- UKER:* If circumstances warrant it, the initial points of contact and counselling services at UKER may advise an arbitration procedure, initiated and pursued by the complaints body at UKER. This requires the consent of both parties.

Section 7 Complaints procedure

- (1) The aim of a complaint is to make FAU and UKER aware of any misconduct pursuant to Section 3 of these guidelines in order to ensure that in the event of discrimination, harassment or sexual

¹ See Federal Anti-Discrimination Agency publication (2015): Leitfaden. Beratung bei Diskriminierung: erste Schritte und Weitervermittlung, Berlin. German version only.

harassment pursuant to Section 3, all necessary measures can be taken to prevent the situation from continuing and preventing repeated discriminatory behaviour, harassment or sexual harassment in the future.

- (2) The person making the complaint should file a formal complaint with either the complaints office at FAU (P6 – Legal Affairs) or the complaints office at the human resources department at UKER (Dezernat Personalwirtschaft). The complaint must be filed in writing or reported verbally and recorded in writing by a member of the complaints office.
- (3) The complaint must describe the events experienced as discrimination, harassment or sexual harassment. Any evidence and/or names of witnesses should be included, as far as possible. In addition, the complaint should state who has already been informed about the incident, which measures have been taken and with whom it has already been discussed.
- (4) Once the complaint has been received, the complaints office shall inform the person making the complaint of their rights, obligations and the procedure to be followed. The person making the complaint shall be informed that they are not entitled to remain anonymous and that submitting a complaint does not justify an extension of the time limit for filing a complaint of two months pursuant to Section 15 AGG.
- (5) *FAU:* If the issue warrants it and arbitration proceedings have not yet been initiated, the complaints office at FAU may advise those affected to pursue arbitration with the Commission for Research Conflict Management or the FAU Conflict Management Team. If the defendant is a student, the arbitration shall be conducted by the Dean of Studies at the respective faculty. This arbitration procedure shall be initiated by the arbitration bodies responsible and can only proceed if both conflicting parties agree.
UKER: If the claim at issue warrants it, the complaints office may advise the parties to take their complaints procedure to arbitration. However, this requires the consent of both parties.
- (6) The complaints office may involve people in a managerial position from each of the areas affected. This shall in particular be the case if immediate measures are required to stop discrimination, harassment or sexual harassment. In order to be able to assess the situation appropriately, the complaints office may also seek and receive expert advice (e.g. from women's representatives or equal opportunities officers, the Office of Equality and Diversity or other initial points of contact and counselling services), provided these people have not already been involved in dealing with the case as initial points of contact or counselling services as defined in Section 6.
- (7) The complaints office shall give the defendant a detailed account of the complaint and ask for a response to the complaint within the set deadline. This deadline shall not exceed two weeks.
- (8) The defendant may provide their response verbally or in writing, and this shall be passed on to the complaining party as part of the complaints procedure. Based on this, a member of the complaints office shall meet the defendant to discuss the matter in person within 10 days of receiving the statement. The defendant's direct supervisor may be involved in the meeting. If requested by the defendant, a person they trust may also be invited to attend.
- (9) The complaints office shall investigate the issue. Providing they comply at all times with data protection provisions and exercise due discretion, the complaints office may inspect any relevant documents and hear witnesses. If the complaint proves to be justified, the complaints office at FAU shall inform the President or the Chancellor of FAU and the complaints office at UKER shall inform the

medical director/the hospital managing director of the outcome of their investigations and shall suggest how to proceed or recommend necessary sanctions.

- (10) The procedure shall be discontinued if the investigation does not uncover sufficient evidence for discrimination, harassment or sexual harassment. However, measures may still be taken to resolve the conflict.
- (11) The complaints office shall document all hearings and shall inform both parties of the outcome of their investigations. It is recommended that everything should be set down in writing in case it is later needed as evidence.
- (12) The President or the Chancellor of FAU or the medical director or hospital managing director of UKER shall decide whether any further measures relating to labour law, employment law, university law, status law or examination law or any sanctions pursuant to Section 8 of these guidelines are required and shall initiate them accordingly.
- (13) The person filing the complaint may decide to withdraw the complaint at any time during the complaints procedure. This automatically leads to the discontinuation of the complaint procedure.

Section 8 Consequences, sanctions, recourse

- (1) If it is determined that discrimination, harassment or sexual harassment has taken place, the President or Chancellor of FAU or the medical or hospital managing director of UKER shall take suitable, necessary and appropriate preventative measures. These shall include

For students

- Meeting with degree programme manager or Dean of Studies
- Ban from attending lectures/seminars
- Ban from entering the premises
- Criminal charges from FAU or UKER
- De-registration

For employees

- A formal interview
- A verbal or written warning
- Transfer or relocation
- Dismissal with or without notice
- Disciplinary action
- Cancellation of teaching contract
- Ban from using university facilities
- Ban from entering the premises
- Criminal charges from FAU or UKER

Please be aware that this is not an exhaustive list. The requirements and procedures for individual sanctions against further parties pursuant to Section 2 (1) are guided by the applicable legal regulations.

- (2) If the affected person files a claim for damages with FAU or UKER on the basis of discrimination, harassment or sexual harassment, FAU and UKER may claim compensation in line with legal provisions from the accused person for violating their contractual obligations, or their obligations under employment or university law.

Section 9 Preventative measures

- (1) By publishing these guidelines, FAU and UKER hope to raise awareness among all groups of people set forth in Section 2 (1) of these guidelines and to ensure that cases of discrimination, harassment and sexual harassment are not ignored or tolerated.
- (2) FAU and UKER shall take preventative measures, in particular by
- Raising awareness within the institutions for problems posed by discrimination, harassment and sexual harassment at the workplace and whilst studying
 - Providing information materials about dealing with cases of discrimination, harassment and sexual harassment
 - Offering training courses for managers and people assuming managerial, training and qualification tasks in administration, training, research and teaching as well as for those designated as initial points of contact, or who work in counselling services or the complaints office.
- (3) FAU and UKER pledge to refrain from using discriminatory or sexist images at all times, particularly in advertising.

Section 10 Confidentiality and data protection

The initial points of contact and counselling services shall treat all personal data pursuant to Art. 4 (1) and Art. 5 (1) of the General Data Protection Regulation (GDPR) and the details of the case which they learn of as part of their work with strict confidentiality.

Section 11 Legal validity and transitory provisions

- (1) These guidelines shall become valid on 1 June 2021 and shall apply until revoked by the Executive Board of FAU or the Board of Directors of UKER.
- (2) The Executive Board of FAU and the Board of Directors of UKER shall take suitable measures to inform all people pursuant to Section 2 (1) of these guidelines.