

On December 6, 2023, the University Executive Board adopted the Directive for the Prevention of and Protection against Sexualized Harassment, Discrimination and Violence (German abbreviation: SBDG-Schutz-RL) at the University of Applied Sciences Erfurt (FHE).

The co-determination of the Works Council followed on December 12, 2023.

## **Directive for the Prevention of and Protection against Sexualized Harassment, Discrimination and Violence**

### **Preamble**

The University of Applied Sciences Erfurt is committed to diversity and equal opportunities and attaches great importance to non-discriminatory behaviour in the workplace and academic environment. Consequently, it advocates that all members and affiliates of the university interact in a spirit of trust and respect, whether it be in the student or teaching realm, in research or knowledge transfer, or at all levels of service provision. With this directive, the university expressly states that it does not tolerate any sexualized harassment, discrimination or violence. The directive particularly focuses on people/groups who, according to the latest research, are especially affected by sexualized harassment, discrimination and violence, such as women, the LGBTQIA+\* community and minors. At FHE (hereinafter referred to as the "university"), we provide a framework to ensure that people's individual rights and personal boundaries are respected and upheld in accordance with German Basic Law and that a culture of appreciation, respect and safety is fostered at the university.

### **Section One: Principles and Definitions**

#### **§ 1 Principles**

<sup>1</sup>The university does not tolerate any form of sexualized harassment, discrimination or violence. <sup>2</sup>It protects all members, affiliates and guests to the best of its ability against all forms of sexualized harassment, discrimination and violence and punishes any violations. <sup>3</sup>These are the foundations upon which this directive determines how the university deals with sexualized harassment, discrimination and violence.

#### **§ 2 Scope**

(1) <sup>1</sup>The directive applies personally to all members and affiliates of the university as defined in § 21 (1) of the Thuringian Higher Education Act (ThürHG). <sup>2</sup>It also applies to externals, such as guests, scholarship holders and persons involved in recruitment and professorial appointment procedures.<sup>3</sup>It also applies in cases of sexualized harassment, discrimination or violence committed by or against third parties on the university campus if at least one person involved is a member or affiliate of the university.

(2) <sup>1</sup>The directive applies to the entire premises of FHE, including all of its campuses and off-site branches and any facilities rented by FHE. <sup>2</sup>Correspondingly, it also applies to online meeting rooms and events.

(3) <sup>1</sup>It also applies outside university premises, insofar as a connection can be established with the

university in its role as an educational establishment or workplace. <sup>2</sup>In accordance with this directive, guests, visitors and employees of service providers are also expected to treat each other and members and affiliates of the university with respect and esteem.

### § 3 Definitions

(1) The term "sexualized" as used in this directive assumes that the harassment, discrimination and acts of violence referred to are not necessarily sexual in origin, but that they may involve sexuality and sexual acts being instrumentalized and may also represent an abuse of power.

(2) Sexualized harassment, discrimination and violence are forms of behaviour that can violate the dignity of the affected individual and create an environment in which intimidation, hostility, humiliation, degradation and insults are the norm.

(3) <sup>1</sup>Any sexually influenced behaviour that is generally considered undesirable and/or considered undesirable by affected individuals counts as sexualized harassment, discrimination or violence. <sup>2</sup>This includes both verbal and non-verbal behaviour. <sup>3</sup>It also covers all criminal offences. <sup>4</sup>Furthermore, any of the following unwelcome conduct must be refrained from:

- physical contact and assault
- soliciting sexual contact
- demeaning and sexualized remarks, even if they are declared as 'jokes'
- comments about someone's body, sexual activity, sexual orientation or gender identity
- gestures or behaviour that have sexual implications
- sharing, posting and disseminating pornographic and/or sexist texts, voice or text messages and/or images, regardless of the means of communication used
- exhibitionist behaviour
- surveillance, stalking and coercion

(4) <sup>1</sup>Sexualized harassment, discrimination or violence need not always be intended as such. <sup>2</sup>It is sufficient if the person affected (hereinafter: "affected individual") perceives it to be so. <sup>3</sup>Such harassment, discrimination or violence also exists if the affected individual appears to tolerate it. <sup>4</sup>In the immediate situation, the affected individual does not have to resist or express any other form of rejection.

(5) Sexualized harassment, discrimination and violence are considered to be particularly serious misconduct if they exploit relationships involving a duty of care and dependency in the workplace, academic environment or vocational training, threaten or give rise to concerns about personal or professional disadvantages, or suggest the prospect of personal or professional advantages.

(6) Affected individuals are persons who are experiencing or have experienced behaviour in accordance with § 3 of this directive.

(7) The accused are persons who are alleged to have engaged in any of the behaviour specified in § 3 of this directive.

(8) The informant is the person who has either been confided in as a person of trust or has themselves experienced sexualized harassment, discrimination or violence and reported it.

## **Section Two: General Provisions**

### **§ 4 Protection and support for persons affected by misconduct**

- (1) The university is particularly vigilant in respect to its duty of care and protection towards affected individuals.
- (2) <sup>1</sup>The name of the affected individual must not be publicly disclosed. <sup>2</sup>If action is taken, the name of the affected individual may only be disclosed to the accused if the accused is legally entitled to know or if the matter can otherwise not be properly clarified. <sup>3</sup>During informal proceedings, the affected individual has an unrestricted right to anonymity; the affected individual can be represented by or, if this is not possible, be accompanied by a person of trust of their choice.
- (3) If a case of misconduct becomes known, appropriate steps will be taken to protect the affected individual according to their wishes.
- (4) As far as possible, FHE offers affected individuals the opportunity to receive preliminary legal and psychological counselling free of charge if they so wish. <sup>2</sup>Counselling services can be arranged if required. <sup>3</sup>The university will provide the necessary resources for this purpose.
- (5) As far as possible, FHE will ensure that complaints do not result in any personal, academic or professional disadvantage for the complainant or their person of trust. <sup>2</sup>Together with their program director and the Director of the Centre for Student and Academic Affairs, individual solutions will be found for affected students.
- (6) The individual affected by the misconduct is entitled to take action of their own, including filing a complaint or seeking legal assistance.

### **§ 5 Protection of the accused and other safeguards**

- (1) The provisions of § 10 and § 4 apply accordingly to informants.
- (2) <sup>1</sup>The university shall honour its duty of care and protection towards the accused. <sup>2</sup>The name of the accused may only be disclosed to those entrusted with the case, but not publicly. <sup>3</sup>The university ensures that any person who has been wrongly accused will be vindicated. <sup>4</sup>The accused is entitled to involve a person of trust in the proceedings.
- (3) Abuse of the right of appeal can be punished in accordance with § 12.

## **Section Three: Prevention**

### **§ 6 Principles of prevention**

- (1) <sup>1</sup>The university is a safe and non-violent space in which everyone can move freely without fearing sexualized harassment, discrimination or violence. <sup>2</sup>The members and affiliates of FHE are to treat each other with respect and professionalism and maintain an appropriate level of distance.
- (2) <sup>1</sup>The university endeavours to eliminate taboos surrounding this issue, actively promote prevention and take the necessary action in the event of misconduct. <sup>2</sup>Persons with responsibility for vocational training, teaching, supervision or management play a special role in setting an example.

## **§ 7 Preventive measures**

- (1) <sup>1</sup>The university shall develop preventive measures to protect its members and affiliates and further improve general conditions. <sup>2</sup>The insights gained from counselling and complaints procedures are to be used to devise structural improvements.
- (2) All members and affiliates of the university, especially those with responsibility for vocational training, teaching, supervision or management, shall take appropriate measures in their area of work to ensure that sexualized harassment, discrimination or violence do not occur.
- (3) All members and affiliates are strongly encouraged to immediately report any observations of misconduct as defined in this directive to the appropriate body listed in § 10 (5) or § 11 (2) or by writing to the Whistleblowing Officer.
- (4) <sup>1</sup>The university shall inform all members and affiliates of this directive, especially when recruiting new employees and enrolling new students. <sup>2</sup>The university's cooperating and contractual partners will also be informed of this directive.
- (5) <sup>1</sup>The university believes that dealing effectively with sexualized harassment, discrimination and violence is an important facet of managerial and teaching competence. <sup>2</sup>The hierarchical structures and dependent relationships that exist in a university context, whether in research, teaching or administration, are particularly susceptible to abuses of power. <sup>3</sup>The university encourages people to take responsibility accordingly, e.g. by taking extra training.
- (6) The university shall notify all central and decentralized departments about awareness-raising and training opportunities on the subject of sexualized harassment, discrimination and violence, and regularly holds such events of its own.
- (7) Meetings conducted with employees or students are preferably to be held in offices during normal working hours, with the door open or closed by prior arrangement and in due consideration of the employees' or students' interests.
- (8) The university supports central and departmental measures and university groups in combating sexualized harassment, discrimination and violence.
- (9) <sup>1</sup>The relevant counselling services and points of contact form a network that cooperates in order to pool information on incidents of misconduct and effective preventive measures. <sup>2</sup>The counselling services and points of contact as defined in § 10 (5) have the opportunity to receive appropriate training for the fulfilment of their duties.

## **§ 8 Monitoring, reporting and further development**

- (1) Together with the Works Council, the Equal Opportunities Officers, representatives of thematic university groups, such as the Awareness Team, and the Equal Opportunities Advisory Board, the University Executive Board is developing a joint monitoring system for the preventive measures implemented. <sup>2</sup>The University Executive Board is responsible for ongoing monitoring and an annual evaluation.
- (2) Every year, the President shall report to the Senate on the implementation of this directive, with respect for the necessary degree of anonymity, and the Equal Opportunities Advisory Board shall also be invited to attend.

## Section Four: Procedures

### § 9 Procedural principles

- (1) <sup>1</sup>All procedures are to be conducted in strict confidence in order to protect the parties involved. <sup>2</sup>Confidentiality must also be maintained after the procedures have been concluded. <sup>3</sup>The parties to these procedures must be explicitly informed of their obligation to confidentiality.
- (2) The procedures in question are counselling (informal procedure) pursuant to § 10 and/or complaint (formal proceedings) pursuant to § 11. Formal proceedings are used to clarify the facts of a case. This in turn will lead to the corresponding legal consequences under employment, personnel and examinations law.
- (3) <sup>1</sup>If it is established in the course of formal proceedings that any misconduct as defined in this directive (hereinafter: "misconduct") has occurred, the University Executive Board shall take immediate action. <sup>2</sup>Procedures conducted in accordance with this directive should be fast-tracked.
- (4) Affected individuals will be supported and are expressly encouraged to contact those listed in § 10 (5) or § 11 (2) in order to make it clear to the accused that their behaviour is unwelcome and must stop.
- (5) Involvement in these procedures will be counted as working hours.
- (6) <sup>1</sup>All members and affiliates of the university with responsibility for vocational training, teaching, supervision or management are obliged to immediately inform one of the bodies listed in § 10 (5) if they suspect sexualized harassment, discrimination or violence. <sup>2</sup>Before providing this information, they must obtain the consent of the affected individual. If the affected individual does not consent, the report must be made without naming them. The anonymity of the affected individual must be preserved.
- (7) One of the bodies responsible under § 10 (5) shall only decide whether and to what extent the President is informed if the affected individual consents.
- (8) <sup>1</sup>All persons involved in the procedures are obliged to maintain confidentiality. <sup>2</sup>Please refer to § 5.
- (9) This does not affect the rights of all parties involved with regard to data protection, confidentiality, privacy and their right to take legal action.
- (10) <sup>1</sup>The procedure specified in this directive is mapped in the process portal (PIP) and on the university's Intranet. <sup>2</sup>Regular reviews are conducted to assess the effectiveness of the procedure and to refine it.
- (11) Where necessary, FHE will take additional steps to improve the structure of individual procedures.

### § 10 Counselling

- (1) <sup>1</sup>Affected individuals can seek advice (informal procedure) from one of the counselling services and contacts listed in paragraph 5. <sup>2</sup>If the affected individual so chooses, they can be accompanied by a person they trust (hereinafter referred to as "person of trust") during these meetings.
- (2) <sup>1</sup>Initial contact can be made by the individual affected by sexualized harassment, discrimination or violence or by a third party on their behalf, even anonymously. <sup>2</sup>In these circumstances, it is not necessary to adhere to any prescribed official channels.

(3) <sup>1</sup>The counselling centres and points of contact listed in paragraph 5 will support the affected individuals in exercising their rights and will also assist them in making a formal complaint if they wish to do so and initiate formal proceedings. <sup>2</sup>This also includes helping affected individuals to put their verbal complaints into writing.

(4) All counselling sessions under paragraph 1 must be treated confidentially by all parties involved, unless the parties agree in writing to disclose the content of the conversation or parts of the conversation to third parties, in particular

- the responsible authority at the university as per § 11 (2)
- law enforcement authorities or
- an in-house or external psychological counselling centre.

(5) At FHE, various services and staff are available to provide counselling to affected individuals, depending on their role within the university or employment status:

- a. line managers
- b. deans
- c. the Works Council
- d. the central and departmental equal opportunities officers
- e. the Diversity Officer
- f. the Director of the Centre for Student and Academic Affairs
- g. student coordinator(s)

(6) Information on counselling services and points of contact can be found on our university website.

(7) The affected individual is also free to seek advice from external agencies.

### **§ 11 Complaints**

(1) <sup>1</sup>A complaint (*formal proceedings*) can be filed by the affected individual or by a third party acting on their behalf, even if no prior informal proceedings have taken place. <sup>2</sup>This serves to inform the President with a view to clarifying the facts of the case.

(2) <sup>1</sup>In order to initiate the complaints procedure, the affected individual or someone authorized by that individual to represent them is required to report the facts of the case to the President of FHE in the presence of an in-house university lawyer. <sup>2</sup>In these circumstances, it is not necessary to adhere to any prescribed official channels.

(3) <sup>1</sup>If the President is the accused, the affected individual or their authorized representative is required to present the complaint to the President's first deputy in the presence of an in-house university lawyer. <sup>2</sup>In these circumstances, it is not necessary to adhere to any prescribed official channels.

(4) Depending on which area of responsibility is involved, the proceedings will be conducted by the Executive Vice-President or the President in cooperation with the Director of Human Resources or the Director of the Centre for Student and Academic Affairs.

(5) <sup>1</sup>As part of the investigation, the accused will be given the opportunity to make a statement. <sup>2</sup>If the

accused is a student enrolled at FHE, it is possible to initiate disciplinary proceedings in accordance with § 76 (4) in conjunction with § 76 (1) sentence 2 no. 2 of the Thuringian Higher Education Act (ThürHG). <sup>3</sup>The person making the complaint will be informed of the outcome of the investigation.

(6) If the disciplinary proceedings or investigation carried out under labour or employment law indicate that there is sufficient evidence of misconduct, the President or the Executive Vice-President shall impose appropriate sanctions in accordance with their respective authority.

(7) The person making the complaint can neither demand sanctions from the university nor prevent sanctions (in accordance with § 12).

### **§ 12 Sanctions**

(1) <sup>1</sup>These sanctions are designed to firmly signal that misconduct has occurred, prevent its repetition and clearly demonstrate that the university will not tolerate such behaviour. <sup>2</sup>They will always depend on the specific case in question.

(2) Based on the individual's position within the organization or their employment contract, the following sanctions may be imposed on the person responsible for the misconduct:

- formal appraisal interview
- verbal or written caution
- written warning
- cease-and-desist order
- dismissal
- redeployment to another place of work
- initiation of disciplinary proceedings
- account withdrawal in the event of harassment using electronic communications
- disqualification from the use of university facilities
- exclusion from participating in university events
- ban on entering university premises
- termination of enrolment

### **§ 13 Gender equality**

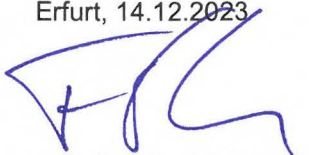
Designations of status and function in this directive also apply to persons whose birth certificates contain the indication "diverse" or no specification of gender.

### **§ 14 Final provisions**

<sup>1</sup>This directive shall enter into force on the day after its publication. <sup>2</sup>The directive is valid indefinitely.

<sup>3</sup>Any amendments require the agreement of the University Executive Board and the Works Council.

Erfurt, 14.12.2023



President