

## Regulations on the Protection Against Sexual Harassment at the University of Zurich

(1 March 2007)<sup>1</sup>

*The Executive Board of the University of Zurich decrees:*

### Disclaimer:

English is not an official language of the Canton of Zurich. This translation is provided by the University of Zurich for information purposes only and has no legal force.

### A. Preamble

§ 1. <sup>1</sup> The purpose of these Regulations is to protect members of the University of Zurich against sexual harassment and thus also safeguard their personal dignity. Purpose

<sup>2</sup> It also aims to prevent individuals, as a result of sexual harassment, from being hindered in achieving true equality in the workplace or on their study course, or of being adversely affected in terms of work performance, employment conditions, the completion of their study course, or their scientific or other professional career.

<sup>3</sup> Finally, these Regulations stipulate the measures to be taken in the event of alleged sexual harassment.

§ 2. Sexual harassment is expressly prohibited. Violation shall result in measures being taken in accordance with § 9. Prohibition of sexual harassment

§ 3. <sup>1</sup> The provisions laid down in these Regulations apply to all members of the University, including both regular and auditor students. Scope

<sup>2</sup> These individuals are protected against sexual harassment in connection with all their University-related activities.

<sup>3</sup> These provisions also apply by analogy to those habilitation students who are not already members of the University in accordance with § 1.

§ 4. <sup>1</sup> Sexual harassment is deemed to be any unwelcome or inappropriate behaviour of a sexual nature that has the purpose or effect of violating an individual's dignity. Definitions

<sup>2</sup> In particular, this expressly includes:

- a. unlawful sexual acts and behaviour,
- b. sexual abuse, sexual assault, requests for sexual favours, inappropriate physical contact or intrusive behaviour,
- c. unwelcome sexual advances accompanied by promises of rewards or threats of disadvantages,
- d. salacious remarks and jokes, particularly relating to appearance or physical characteristics,
- e. showing and/or distributing pornographic material.

<sup>3</sup> Sexist behaviour is deemed to be conduct that is not directly of a sexual nature but, based on the person's gender, is discriminatory or belittling.

<sup>4</sup> In particular, this expressly includes:

- a. insulting or disparaging remarks or jokes relating to a particular gender,
- b. showing images expressing a hostile attitude towards the other gender,
- c. humiliating treatment relating to a particular gender,
- d. behaviour that creates a hostile or offensive work or study environment for individuals of a particular gender.

## B. Prevention

§ 5. <sup>1</sup> University members shall show consideration towards each other and respect the personal limitations of others.

General rules of Conduct

<sup>2</sup> University members who are subjected to sexual harassment should make reasonable efforts to make it explicitly clear to the harasser that they feel disturbed by this behaviour and that it is unwelcome.

<sup>3</sup> University members who are aware of or witness sexual harassment occurring within the framework of a University-related activity are within reasonable bounds obliged to draw attention to the inadmissibility of such behaviour.

§ 6. <sup>1</sup> Senior staff and Heads of Institute are, within their scope of competence, fundamentally responsible for ensuring an educational environment and a workplace that are free from sexual harassment and discrimination. In the event that they discover any behaviour that contravenes the provisions of these Regulations, they are required to take corrective action.

Duties of senior Staff, Heads of Institute and teaching staff

<sup>2</sup> Members of the University teaching staff shall by analogy be subject to the obligations laid down in § 1 with respect to their conduct towards students.

§ 7. University members, as well as persons treated as such, must be informed of the contents of these Regulations in an appropriate manner.

Information

§ 8. <sup>1</sup> The University shall provide a work and study environment that inhibits sexual harassment by organising awareness campaigns and implementing preventative measures.

Awareness campaigns and training

<sup>2</sup> The following individuals, in particular, shall receive function-specific training in order to promote awareness and to prepare themselves for dealing with potential cases of sexual harassment:

- a. members of governing bodies and management staff,
- b. senior staff,
- c. contact persons,
- d. persons designated by the University to act as mediators.

## C. Measures

§ 9. <sup>1</sup> Measures shall be taken against University members who engage in sexual harassment commensurate with the severity of their misconduct.

Measures

<sup>2</sup> Such action shall be in accordance with the provisions applicable to the legal relationship between the harasser and the University. These range from supportive measures through to dismissal or removal from the register of students.

<sup>3</sup> The measures implemented by the University are taken independently of possible criminal proceedings being initiated.

<sup>4</sup> In the event of individuals consciously falsely or frivolously accusing another person of sexual harassment or spreading their suspicion of such behaviour, §§ 1 –3 shall apply by analogy.

## D. Procedure in the event of sexual harassment

### 1. Basic principle

§ 10. <sup>1</sup> Victims of sexual harassment

- a. are entitled to advice and support by specially designated and trained contact persons,
- b. can ask those persons designated by the University to act as mediators or, in justified exceptional cases, can request an external mediator,
- c. are entitled to psychological or psychiatric counselling,
- d. can request an administrative investigation to be conducted.

<sup>2</sup> In addition, University employees can contact the cantonal authority responsible in accordance with the provisions of the Federal Act on Gender Equality of 24 March 1995<sup>4</sup> and the cantonal introductory law on the Equal Status Act of 29 October 2001<sup>2</sup> in the event that they have been subjected to sexual harassment or any other type of discrimination as laid down in the Gender Equality Act.

Rights of the persons concerned

§ 11. <sup>1</sup> In the event that senior staff or Heads of Institute gain knowledge of incidents of sexual harassment, they shall as far as possible establish the facts and take the appropriate action. On doing so, they shall observe the personal rights of the person concerned and show due consideration for his/her needs.

<sup>2</sup> They shall support the person concerned and refer him/her to the relevant contact persons.

<sup>3</sup> They may also seek the advice of the Office for Gender Equality.

Rights and Duties of senior staff and Heads of Institute

§ 12. <sup>1</sup> The person concerned may not be subjected to any further discrimination as result of the sexual harassment.

<sup>2</sup> In particular, he/she may not suffer any disadvantage as regards his/her employment relationship, study course or future scientific work as a result of:

- a. discriminatory and hostile behaviour,
- b. the availment of official advice and support.

<sup>3</sup> This also applies by analogy to informants and witnesses who participate in legal proceedings, as well as to all individuals who in accordance with these Regulations perform tasks, assume functions, request or decide measures, or are in any other way concerned with issues relating to sexual harassment.

<sup>4</sup> A sexual harassment victim may stop working, without any loss of salary, provided that the continuation of such work is deemed unreasonable and that appropriate measures have failed to be promptly implemented despite this being expressly requested.

<sup>5</sup> Protection against unfair dismissal is governed by Art. 10 of the Gender Equality Act<sup>4</sup>. The University reserves the right to apply more far-reaching protection in this respect.

Ban on further discrimination

### 2. Contact persons

§ 13. <sup>1</sup> The specially designated contact persons shall be the Head of the Office for Gender Equality and the General Secretary of the University of Zurich.

<sup>2</sup> In order to ensure that both sexes are represented at all times, each contact person shall have deputies of the opposite sex, appointed by the Executive Board for a period of two years, with the possibility of re-election.

<sup>3</sup> Advice by the contact persons is directed through the Office for Gender Equality, as well as the University's Legal Services.

Contact persons

§ 14. The contact persons are entrusted with supporting and advising the sexual harassment victim. In particular, their tasks include:

- a. supporting and advising the person concerned,
- b. arranging psychological or psychiatric counselling on the request of the person concerned,
- c. providing information about the clarification proceedings and forwarding details of the relevant facts, as well as referring the person concerned to the University's Legal Services and to the person charged with investigating the incident,
- d. taking further action to bring the sexual harassment to a stop.

Tasks of the contact persons

§ 15. Advisory and supportive measures may only be taken by the contact person with the consent of the person concerned.

Consent of the person concerned

§ 16. <sup>1</sup> The Office for Gender Equality shall report annually to the Executive Board on the activities of the contact persons.

Reporting

<sup>2</sup> This report is drawn up in an anonymous form to ensure that the persons mentioned therein cannot be identified.

### 3. Internal clarification proceedings and investigator

§ 17. <sup>1</sup> The investigator must be a qualified, juristically trained person with a great deal of empathy.

Investigator

<sup>2</sup> The investigator is appointed by the Executive Board on the recommendation of the Equality Commission for a period of two years. Re-election is possible.

<sup>3</sup> The investigator is assigned a deputy, who fulfils the same requirements as the investigator and is also appointed by the Executive Board for a period of two years, with the possibility of re-election.

<sup>4</sup> The advice and support provided by the investigator and his/her deputy is directed through the University's Legal Services. In the event that the investigator is a professor at the University, he/she can request one of his/her assistants to record the minutes during the clarification proceedings.

§ 18. The investigator is charged with establishing the facts and conducting the clarification proceedings. In order to fulfil his/her tasks, the investigator is entrusted with the following competencies:

Tasks of the investigator

- a. conducting the clarification proceedings with the persons involved and questioning the informants,
- b. requesting permission from the Executive Board to consult experts,
- c. requesting the Executive Board that the appropriate measures are taken in accordance with § 9,
- d. if the matter falls within the scope of competence of the Board of the University, submitting to the Executive Board a request to the Board of the University that the appropriate measures are taken,
- e. requesting the Executive Board that an administrative investigation is carried out in accordance with §§ 19 f. provided that the investigator deems this necessary.

### 4. Administrative investigation

§ 19. <sup>1</sup> An administrative investigation is ordered by the Executive Board on the request of the investigator or the sexually harassed victim. If the severity of the matter so demands, the Executive Board can initiate the administrative investigation itself.

Administrative investigation

<sup>2</sup> The administrative investigation is conducted by a specially designated, suitably competent expert who does not belong to the University, or by a specially appointed expert commission. When appointing a suitably competent expert, the Equality Commission shall have the right of proposal.

<sup>3</sup> The specially designated expert or specially appointed commission can, within the framework of the administrative investigation, request the relevant authorities that appropriate measures are taken.

§ 20. On conclusion of the administrative investigation, the Executive Board shall make its decision on the requested measures in accordance with § 9 or, if the matter falls within the scope of competence of the Board of the University, shall request the Board of the University to do so.

Conclusion of the administrative investigation

## 5. Competencies of the Executive Board

§ 21. The Executive Board is fundamentally responsible for making decisions in accordance with these Regulations. In particular, its tasks comprise:

Tasks of the Executive Board

- a. deciding on external mediation on the request of the person concerned,
- b. deciding on the consultation of experts on the request of the person concerned,
- c. deciding on the ordering of appropriate measures to be taken in accordance with § 9 on the request of the investigator,
- d. deciding on the ordering of an administrative investigation to be conducted on the request of the investigator or the person concerned,
- e. deciding on the ordering of an administrative investigation to be conducted without a request by the investigator in the event that, due to the severity of the matter, the Executive Board deems this necessary,
- f. deciding on the ordering of appropriate measures to be taken in accordance with § 9 on the request of the competent expert charged with conducting the administrative investigation or the specially appointed commission,
- g. if the matter falls within the scope of competence of the Board of the University, submitting a request to the Board of the University that the appropriate measures are taken in accordance with § 9,
- h. ensuring that the requested measures are implemented effectively and fully and that the prohibition of further discrimination is complied with.

## 6. Provisions governing the internal clarification proceedings

§ 22. Provided that these Regulations do not contain provisions to the contrary, the proceedings and the rights of all those involved shall be governed analogous to the provisions laid down in the Administrative Judiciary Procedure Act<sup>3</sup> of the Canton of Zurich.

Internal clarification proceedings

§ 23. <sup>1</sup> Both the person concerned and the accused person are entitled to a fair hearing.

Rights during the proceedings

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

- a. be accompanied during the clarification proceedings,
- b. be present during the questioning of informants or experts, as well as of the person concerned or the person accused of sexual harassment,
- c. respond to the comments made by informants and the person concerned,
- d. after completion of the clarification proceedings, have access to the records and respond to the statements contained therein,

<sup>3</sup> If overriding interests on the part of the University, the person concerned or a third party so demand, the legal hearing and the access to the records can be restricted. In particular, the person concerned can, on his/her request, be questioned

in the absence of the accused person. In such a case, the accused person can be represented during the questioning by a legal advisor.

§ 24. <sup>1</sup> The contact persons, the investigator, the expert charged with conducting the administrative investigation, and all the members of the specially appointed commission, are bound by an obligation of absolute confidentiality. In particularly serious cases, these persons can on their own request be released from this confidentiality obligation. The competent body in this respect is the Executive Board in consultation with the University's Legal Services.

Obligation of confidentiality

<sup>2</sup> The members of the Executive Board are also subject to an obligation of absolute confidentiality. In particularly serious cases, these persons can on their own request be released from this confidentiality obligation. The competent body in this respect is the Board of the University.

§ 25. <sup>1</sup> All proceedings are free of charge, with the exception of cases of vexatious litigation.

Payment and reimbursement of costs

<sup>2</sup> The Executive Board can in individual cases reimburse the person concerned or the wrongly accused person with the costs arising from the proceedings.

§ 26. <sup>1</sup> All proceedings should be concluded as quickly as possible, at the latest, however, within four months of the procedure being instituted.

Duration of the proceedings

<sup>2</sup> The Executive Board shall, within 60 days after completion of the proceedings, make a decision on the measures to be taken or, if the matter lies with the scope of competence of the Board of the University, submit its request to the Board of the University that the appropriate measures are taken.

§ 27. <sup>1</sup> On the request of and in consultation with the person concerned or the wrongly accused person, the other persons in their respective study or work environments can be informed of the outcome of the proceedings.

Informing of the outcome of the proceedings

<sup>2</sup> When informing about the outcome of the proceedings, the personal rights and other interests worthy of protection relating to all those involved in the proceedings must be safeguarded in the best possible manner.

## E. Final provision

§ 28. These Regulations are effective as of 1 May 2007.

Effective date

<sup>1</sup> OS 62, 96.

<sup>2</sup> LS 151.

<sup>3</sup> LS 175.2.

<sup>4</sup> SR 151.1.