



Complaints procedure regarding undesirable behaviour: (sexual) intimidation, discrimination, aggression/violence and bullying

(as referred to in Chapter U of the Collective Agreement for Universities of Applied Sciences 2021-2022)

This complaints procedure relates to the handling of a complaint that is submitted to the Complaints Committee for Undesirable Behaviour of the Amsterdam University of the Arts. To begin with, students and staff members who are experiencing or have experienced undesirable behaviour can report this to their teacher, supervisor, director or to the Executive Board. It is also possible to discuss the situation (first) with a confidential adviser. The confidential adviser can provide information and advice about the complaints procedure, offer a confidential conversation and can act as point of contact during the complaints procedure. The Confidential Advisers Regulations are published on the website and the intranet.

It is also possible – whether or not with the help of a confidential adviser – to submit a complaint to the AHK Complaints Committee. The regulations below concern the procedure when submitting a complaint to the Complaints Committee.

Chapter 1 General

Article 1.1 Definition of terms

In this complaints procedure, the following terms are defined as stated below:

- a. University:
the Amsterdam University of the Arts, on the basis of the *stichting Amsterdamse Hogeschool voor de Kunsten* (Amsterdam University of the Arts foundation, AHK);
- b. Executive Board:
the Executive Board as referred to in the articles of association of the University;
- c. Supervisory Board:
the Supervisory Board as referred to in the articles of association of the University;
- d. Intimidation:
frightening someone by means of verbal, physical or psychological threats with the intention of putting pressure on the person threatened and forcing them to do something, not do something or endure something. The victim actually feels forced into behaviour that the perpetrator would not normally be able to demand of them;
- e. Sexual intimidation:
any form of verbal, non-verbal or physical behaviour with a sexual connotation, the purpose or consequence of which is to offend the person's dignity, especially if a threatening, hostile, insulting, humiliating or hurtful situation is created. Sexual intimidation can be both intentional or unintentional;
- f. Discrimination:
unlawful discrimination on the basis of origin, skin colour, gender, sexual orientation, age, physical or mental impairment or chronic condition, political affinity, employment relationship, employment contract, civil status, nationality, religion or ideological beliefs. Examples include discrimination or pronouncements, actions and decisions that are insulting or humiliating;
- g. Aggression/violence:
incidents where someone is psychologically and/or physically harassed, threatened or attacked under circumstances that are directly related to the study or work situation. Aggression and violence can be verbal, non-verbal, physical and/or psychological (for example threatening);
- h. Bullying:
recurring, intimidating behaviour aimed at deliberately hurting or humiliating one or more persons. Bullying behaviour can manifest itself in different ways, for example



verbally, by ridiculing someone, gestures, via (social) media, stalking, threats or damaging possessions;

- i. Undesirable behaviour:
behaviour as referred to in sections d up to and including j of this article;
- j. Staff member:
person who has a permanent or temporary contract with the University. Those who are made available to the University through a temporary employment, internship or secondment contract, or those employed on the basis of a contract for the provision of services, or otherwise, are considered equivalent to a staff member;
- k. Student:
a person who is enrolled in education at the University, that is to say all students at a university of applied sciences (Bachelor's, associate degree, Master's) and external students, guest students, participants in contract education and students of preparatory courses;
- l. Complaints Committee:
the Complaints Committee for Undesirable Behaviour, as referred to in chapter 2 of this procedure;
- m. Complainant:
a student or staff member of the University who submits a complaint to the Complaints Committee;
- n. Accused:
the staff member or student whose behaviour is the basis of a report or complaint being submitted;
- o. Complaint:
a complaint exists if a student or staff member of the University submits a complaint about undesirable behaviour to the Complaints Committee; complaints can only relate to persons;
- p. Confidential adviser:
the confidential adviser is appointed by the Executive Board and can act as point of contact for students and staff members who have experienced undesirable behaviour and want to submit a complaint;
- q. Report:
a report exists if a student, alumnus or (former) staff member of the University reports an instance of undesirable behaviour to the confidential adviser, supervisor, management and/or the Executive Board; a report can relate to a person or a situation. Reports and complaints are two different ways to raise undesirable behaviour.
- r. Higher Education and Research Act:
the Dutch Higher Education and Research Act (Wet op het hoger onderwijs en wetenschappelijk onderzoek, WHW);
- s. Collective Agreement:
the Collective Agreement for Universities of Applied Sciences (Collectieve Arbeidsovereenkomst voor het Hoger Beroepsonderwijs, cao-hbo)

Article 1.2 Objective; direct relation to work or education

1. This complaints procedure regulates the procedure and course of proceedings in relation to complaints regarding undesirable behaviour that takes place or has taken place under circumstances which relate directly to carrying out work or studying at the University.
2. This complaints procedure applies to all staff members and students.

Article 1.3 Announcement and availability

1. This procedure is generally announced through placement on the website and the intranet of the University.



Article 1.4 Confidentiality

1. Except for the provisions in this procedure, every person who is involved in the course of the proceedings of a complaint by virtue of their position is required to observe confidentiality.
2. Except for the provisions of this procedure, every person who has or receives custody of documents regarding a complaint by virtue of their position is obliged to view them as strictly confidential and also to handle said documents as such.

Article 1.5 Complaints

1. A complaint should be submitted as quickly as possible, but in any case no later than one year after the (last) incident to which it relates. After this period has expired, complaints will no longer be handled, unless there is an urgent reason to do so. See also Article 1.5.8.
2. Submission of a complaint to the Complaints Committee must occur in writing.
3. Anonymous complaints will not be handled.
4. A student or staff member can submit a report or complaint no later than one year after termination of enrolment or termination of their employment contract or the activities.
5. It is recommended to submit the complaint following consultation of a confidential adviser.
6. A complainant can withdraw the complaint at any time. If the complaint is being handled by the Complaints Committee, the procedure will be discontinued immediately, unless the Complaints Committee feels there is a very urgent reason to proceed with the handling of the complaint.
7. If a situation as referred to under 1.5.6 occurs, the Complaints Committee will inform the accused of this. The Complaints Committee will also inform the Executive Board of this, with a view to possible measures to be taken considering the interests of all parties concerned.
8. If the period specified under Article 1.5.1 and/or 1.5.4 has expired, or the complainant/accused no longer works or is no longer enrolled at the University, a complainant can turn to one of the confidential advisers, the supervisor, management and/or the Executive Board, among other ways via the email address meldpunt@ahk.nl.

Chapter 2 **Complaints Committee for Undesirable Behaviour**

Article 2.1 Composition and appointment

1. The Executive Board sets up the Complaints Committee for Undesirable Behaviour.
2. The Complaints Committee consists of a chairperson and two members. There are permanent deputies for both the chairperson and the members. The chairperson and the deputy chairperson are not staff members or students of the University.
3. The members and deputy members are staff members of the University.
4. The chairperson, deputy chairman and the (deputy) members are appointed by the Executive Board for a period of three years. They are eligible for reappointment for one or more terms.
5. A member is appointed on the recommendation of the University Council.
6. When composing the Complaints Committee, an attempt is made to ensure a good spread of members from the academies and the Service Bureau. A diverse committee composition is also sought.
7. The chairperson and deputy chairperson must hold the title LLM or Master of Laws.
8. Members of the Supervisory Board, the members and the secretary of the Executive Board, (deputy) directors, student counsellors, official secretary of the University Council and confidential advisers cannot be appointed as members of the Complaints Committee.



9. The Complaints Committee is supported by an (official) secretary appointed by the Executive Board for that purpose.

Article 2.2 Remuneration

1. The chairperson and deputy chairperson are remunerated on the basis of an hourly rate (fee) agreed upon with the Executive Board.
2. The other members and deputy members receive an appropriate remuneration per meeting.

Article 2.3 Exemption and challenge

1. The composition of the Complaints Committee is announced to the complainant and the accused.
2. If the complaint relates to a situation within the daily working environment (that is to say the academy or the Service Bureau) of a member of the Complaints Committee, the member will be replaced by one of the deputy members.
3. If the chairperson or a member of the Complaints Committee is involved with the case or one of the parties in a work-related capacity or personally, they will be exempted and replaced by one of the deputies.
4. If one of the parties is of the opinion that there are facts or circumstances which would prevent the chairperson or a member of the Complaints Committee from giving an impartial judgment, this party can challenge the chairperson or the member in question.
5. The other members of the Complaints Committee assess whether the challenge or exemption is allowed. If the votes are equally divided, the challenge or exemption will be carried out.

Article 2.4 Submitting a complaint

1. The complainant submits the notice of complaint via the email address secretariaat-klachtencommissie@ahk.nl or in writing to the AHK Complaints Committee for Undesirable Behaviour, PO Box 15079, 1001 MG Amsterdam, in a closed envelop marked 'CONFIDENTIAL'.
2. A notice of complaint must include:
 - a. the name of the person submitting the complaint and of the accused;
 - b. a concrete description of the undesirable behaviour (what happened, when, where);
 - c. which steps the complainant may have already taken and the result of this;
 - d. If applicable, written documents or items of evidence relating to the complaint;
 - e. date of submission.
3. Should the notice of complaint be incomplete, then the Complaints Committee will give the complainant the opportunity to supplement it. If the complainant does not make use of this opportunity, the Complaints Committee may disregard the complaint.
4. After receipt of the complete notice of complaint, the Complaints Committee will inform the accused of receipt of the complaint, the procedure to be followed and the time schedule.
5. If numerous written complaints relate to an identical complaint or accused, the Complaints Committee can decide to handle the complaints together.

Article 2.5 Informing the Executive Board

1. The Complaints Committee will inform the Executive Board that a complaint has been received, providing a summary of the contents of the complaint, the procedure to be followed and the time schedule.



2. After receiving the complaint, the Complaints Committee may decide to inquire about previous attempts to resolve the complaint at the level of the study programme, academy or University. The Complaints Committee may also decide to send a copy of the written complaint to the Executive Board with the request to examine if a resolution is possible without it being handled by the Complaints Committee. The Executive Board may enter into discussion about this with the director. If the Complaints Committee comes to the conclusion that an internal handling of the complaint is not possible or advisable, or if no resolution has been reached after four weeks, the Complaints Committee will proceed directly to handling the complaint.

Article 2.6 Written preparation for the hearing

1. At the moment that the Complaints Committee takes up the complaint, where applicable after the period for an internal resolution referred to under Article 2.5 paragraph 2, the Complaints Committee will send a copy of the written complaint and all accompanying appendices to the accused. The accused is offered the opportunity to submit a written statement of defence within three weeks. The chairperson can decide that the period for submitting the statement of defence is to be extended by a maximum of three weeks.
2. A copy of the statement of defence is immediately sent to the complainant after receipt by the Complaints Committee.
3. The chairperson and the secretary of the Complaints Committee can, where necessary, obtain further information and request documents relating to the case.

Article 2.7 Hearing

1. The complaint is dealt with in a hearing. This takes place within four weeks after the statement of response has been received. In the event of force majeure, this period can be extended by a maximum of two weeks.
2. The complainant need not be heard if the complainant has stated they do not wish to make use of the right to be heard, or if the complaint is obviously ungrounded or obviously inadmissible.
3. Before the hearing, all documents pertaining to the case are brought to the attention of the members of the Complaints Committee.
4. Parties are summoned to the hearing by or on behalf of the chairperson.
5. Parties must attend in person and can be accompanied by a confidential adviser and/or defence counsel.
6. Both parties are heard in a closed hearing. The chairperson of the Complaints Committee decides if the complainant and the accused are heard together or separately. If they are heard separately, the defence counsel of the party not being heard may attend.
7. If parties are heard separately, the substance of the hearing will be shared with the other party aft the end of the hearing.
8. At the end of the hearing, both parties have the opportunity to react to the statement of the other person.
9. The Complaints Committee can, either at the request of the complainant and/or accused or otherwise, hear witnesses or informants.
10. Witnesses or informants can submit a reasoned request to be heard in a separate hearing if they want to make a statement without their identity being revealed to one or both parties, or if they do not want their identity to be deduced from the reporting. The chairperson decides if this is permitted.
11. A concise report of the hearing is made.

Article 2.8 Recommendation of the Complaints Committee

1. The Complaints Committee makes a recommendation no later than four weeks after the hearing. This period can be extended by the Complaints Committee no more than once by a period of another four weeks.
2. The Complaints Committee decides on the recommendation to be made on the basis of a simple majority.



3. The recommendation is shared in writing with both parties and the Executive Board.
4. The anonymity of witnesses as referred to in Article 2.7, paragraph 10 is guaranteed in the recommendation.
5. The recommendation is substantiated and may include:
 - a. a statement on whether the Committee has jurisdiction or the case is beyond its jurisdiction;
 - b. a statement on whether the complaint is admissible or inadmissible;
 - c. a statement on whether or not the complaint is upheld, in full or in part.
6. In the case of a statement that the complaint is upheld in full or in part, the Committee can disclose its opinion about possible measures to be taken to the Executive Board.
7. In the case of a statement that the complaint is unfounded, the Complaints Committee can make a reasoned recommendation to the Executive Board in order to support the rehabilitation of the accused.

Article 2.9 Record keeping and accountability

1. All documents relating to the complaints procedures are kept on record by the secretary.
2. Parties have a right to inspect and have copies of the records with regard to documents pertaining to them.
3. In addition, all members of the Complaints Committee have a right to inspect the records, unless rules of mandatory law determine otherwise.
4. Following settlement of the complaint, the record concerned will be stored up until two years after the recommendation in accordance with Article 2.8.3 has been made.
5. After the period of storage, as referred to in Article 2.9.4, the secretary will destroy all documents about the complaint, except for the recommendation of the Complaints Committee and the decision of the Executive Board.
6. Every year, the Complaints Committee draws up a concise report of its activities for the Executive Board, also if no complaints have been received.
7. In its annual report, the Committee strives to ensure that the information cannot be traced back to specific persons or situations.

Chapter 3 Decision of the Executive Board; (disciplinary) measures

Article 3.1 Decision of the Executive Board

1. The Executive Board makes a decision about the measures to be taken as quickly as possible, but no later than four weeks after it has received the recommendation of the Complaints Committee, and shares this in writing with the complainant and the accused.
2. This period can be extended by a maximum of two weeks. The complainant and the accused are informed of this in writing.
3. The Executive Board can deviate from the advice of the Complaints Committee, as referred to in Article 2.8, paragraphs 6 and 7, stating reasons.
4. Decisions to take (disciplinary) measures are included in the personnel record and/or the student record of the parties concerned.

Article 3.2 (Disciplinary) measures

1. If the Executive Board decides to take measures in response to the recommendation of the Complaints Committee, these measures can be of both a preventative and corrective nature or a combination of both, depending on the concrete situation, and the nature and severity of the complaint.
2. In the case of staff members, the Executive Board can, with due observance of Chapters P and Q of the Collective Agreement for Universities of Applied Sciences, take the following measures:
 - a. written reprimand;
 - b. transfer;



- c. suspension;
 - d. dismissal, or the submission of a request for termination.
3. In the case of students, in view of the provisions in the Student Charter of the University and in accordance with article 7.57h of the Higher Education and Research Act among other things, the following measures can be taken:
 - a. transfer to another group and/or adjustment of the teaching programme to be followed if the teaching programme provides that opportunity;
 - b. a written warning or reprimand;
 - c. suspension and denial of access to the buildings and grounds of the University for a maximum of one year;
 - d. termination of enrolment for a maximum of one year;
 - e. in the case of serious nuisance which does not cease even after a demand by or on behalf of the Executive Board: permanent termination of enrolment, possibly in combination with permanent denial of access to the buildings and grounds of the University.
4. Appropriate measures against third parties can be determined by the Executive Board.

Article 3.3 Objections and appeals

1. No objection or appeal can be lodged against the recommendation of the Complaints Committee, notwithstanding everyone's right to apply to the civil courts.
2. A student can lodge an objection against the decision of the Executive Board with the disputes committee of the AHK. Following an objection procedure, an appeal may be lodged with the Education Appeals Tribunal. The confidential adviser can provide information about the objection and appeal procedure.
3. Before lodging an objection or appeal, a staff member can obtain information about the procedural options from the confidential adviser and/or the Personnel & Organisation department of the AHK.

Chapter 4 Final provisions

Article 4.1 Legal protection

1. The Executive Board shall ensure, as far as possible, that not a single person will have their position and/or interests within the University compromised because they, as complainant, accused, witness, confidential adviser or member of the Complaints Committee, are or were involved in proceedings that fall under the scope of this procedure, unless there is a sanction as referred to in Article 3.2 of this procedure.

Article 4.2 Unforeseen circumstances

1. If circumstances arise which this procedure does not provide for, the Executive Board shall make a decision, with the exception of Chapter 2 (Complaints Committee).
2. If the procedure does not provide for cases related to Chapter 2, the chairperson of the Complaints Committee will make a decision, following consultation with the other members.

Article 4.3 Replacement in the case of Executive Board involvement

1. If one or more members of the Executive Board is or are involved in the complaint as complainant or accused, where there is mention of 'Executive Board' in this procedure, this should be read as 'Supervisory Board'.

Article 4.4 Citing the procedure

This procedure can be cited as 'Complaints procedure regarding undesirable behaviour: (sexual) intimidation, discrimination, aggression/violence and bullying'.



Article 4.5 Adoption and entry into force

1. These procedure was adopted by the Executive Board on 22 June 2022 after consent of the University Council on 21 June 2022.
2. This procedure shall come into force on 22 June 2022. The procedure of 16 December 2015 is revoked.