



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 2014-2016)

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
- b. Executive Board:
the Executive Board as referred to in the articles of association of the University;
- c. Management:
the director/principal and, where applicable, deputy director(s)/principals of a faculty or the Service Bureau of the University, as referred to in the Management Regulations of the AHK;
- d. Supervisory Board:
the Executive Board as referred to in the articles of association of the University;
- e. Intimidation:
frightening someone by means of verbal, physical or psychological threats with the intention of putting pressure on the person threatened and forcing him or her 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 him or her;
- f. 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 painful situation is created. Sexual intimidation can be both intentional and unintentional;
- g. Discrimination:
discriminating - unjustly - based on, among other things, race, sex, sexual orientation, ethnic and cultural background, age, handicap and/or chronic illness;
- h. 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);
- i. 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;
- j. Undesirable behaviour:
behaviour as referred to in sections e to i of this article;
- k. Staff member:
he or she 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 an contract



for the provision of services, or otherwise, are considered equivalent to a staff member;

- i. Student:
he or she who is enrolled in education at the University, that is to say all students from a Bachelor's and Master's degree programme with an applied emphasis (*hbo-studenten*), exchange students, participants in contract education and students of preparatory courses;
- m. Complaints Committee:
the Complaints Committee for Undesirable Behaviour, as referred to in chapter 3 of this procedure;
- n. Complainant:
a student or staff member of the University who reports undesirable behaviour to a confidential adviser, or who submits a complaint to the Executive Board, or the Complaints Committee, in relation to undesirable behaviour;
- o. Accused:
The staff member or student whose behaviour is the basis of a report or complaint being submitted;
- p. Report:
a report exists if a student or staff member of the University reports an instance of undesirable behaviour to the confidential adviser; a report can relate to a person or a situation;
- q. Complaint:
a complaint exists if a student or staff member of the University submits a complaint about undesirable behaviour to the Complaints Committee or the Executive Board; complaints can only relate to persons;
- r. Confidential adviser:
a person as referred to in chapter 2 of this procedure. The confidential adviser is appointed by the Executive Board and acts as point of contact for students and staff members who have experienced undesirable behaviour;
- s. Higher Education and Research Act:
the Dutch Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek, WHW*);
- t. 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 at the foundation 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. Confidentiality: complainants, the accused, confidential advisers, members of the Complaints Committee and other parties involved in the procedure of a report or complaint have a duty to maintain confidentiality (with the exception of the provisions in article 2.2, subsection 5) and ensure that written documents are treated confidentially.
2. The requirement for confidentiality also concerns all other people who, intentionally or unintentionally, are familiar with information in connection with this procedure.
3. The confidential advisers shall point out the confidentiality and duty of confidentiality to the parties involved.



Article 1.5 Reports and complaints

1. A report or complaint is 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 are no longer considered, unless there is an urgent reason to do so.
2. A report to a confidential adviser can occur both orally and in writing.
3. Submission of a complaint must occur in writing.
4. Anonymous reports or complaints will not be considered.
5. A student or staff member can submit a report or complaint no later than one year after termination of enrolment or termination of his or her employment contract or the activities.
6. A complaint should preferably be submitted following consultation of a confidential adviser as defined by this procedure.
7. A complainant can withdraw the complaint at any time. If the complaint is being dealt with by the Complaints Committee, the procedure will be immediately stopped, unless the Complaints Committee sees an urgent reason to proceed with the handling of the complaint.
8. If a situation as referred to under 7 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.
9. If the period specified under subsection 1 and/or 5 has expired, or the accused no longer works or is no longer enrolled at the University, a complainant can approach the confidential advisers in order to discuss which problem-solving approaches are still possible.

Chapter 2 The confidential advisers

Article 2.1 Confidential advisers

1. The Executive Board appoints at least two internal confidential advisers. In addition, the Executive Board appoints one or more external confidential advisers.
2. The internal confidential advisers are staff members of the University.
3. They perform the duties of a confidential adviser alongside their regular position at the University.
4. Members of the Supervisory Board, the members and the secretary of the Executive Board, and the members of the management cannot be appointed as confidential advisers.
5. A student counsellor can be appointed as confidential adviser, provided that a second counsellor is available for students of the same faculty (see also article 2.2.4).
6. When appointing the confidential advisers, an attempt is made to ensure a good spread of advisers from the faculties and the service bureau. An even balance between male and female confidential advisers is also sought.
7. In the event of new appointments, the Executive Board consults a delegation of current confidential advisers and the management under which the prospective confidential adviser works.
8. The Executive Board provides the facilities which the confidential advisers require for their functioning.

Article 2.2 Duties

1. The tasks of the confidential adviser include:



- a. assisting, supervising and supporting those who report undesirable behaviour or an undesirable situation as defined in this Complaints Procedure and/or the Code of Conduct for Public Safety;
 - b. ensuring that there is a suitable way of putting an end to the undesirable behaviour or the undesirable situation, taking into consideration the objectives and wishes of the complainant;
 - c. discussing the possibilities of an informal path towards resolving the problem with the complainant, for example through mediation between complainant and accused;
 - d. advising and supporting a complainant, if required, when submitting a formal complaint to the Complaints Committee (chapter 3 of this procedure);
 - e. referring the party concerned, if required and desired, to specialised support agencies.
2. The confidential adviser can draw the complainant's attention to the possibility of reporting to the police and the proper judicial authorities, as well as supervising this process, if there has been a criminal offence (sexual assault or rape).
 3. The confidential adviser will not undertake any action without the prior approval of the complainant.
 4. The confidential adviser is not at the disposal of the accused.
 5. If the report concerns a sex offence towards a minor, the confidential adviser shall always pass this on to the Executive Board, in connection with the statutory obligation to report this to the police and the confidential educational inspector.

Article 2.3 Powers

1. The confidential adviser is entitled to:
 - a. consult (one of the) other confidential advisers;
 - b. supervise the complainant when submitting a complaint;
 - c. access to all faculties and departments of the University and to hold discussions with students and staff members, and to make enquiries;
 - d. inspect relevant documents, such as the registration of sick leave;
 - e. arrange aftercare for the benefit of the complainant;
 - f. inform the Executive Board and the management boards about (structural) problems, which could lead to undesirable behaviour at the University and to offer advice about rules of conduct and preventative policy.

Article 2.4 Exemption

1. A confidential adviser can request to be exempted if:
 - a. he or she is involved with the complainant or the accused in a work-related capacity or personally. In this case, the matter will be referred to one of the other confidential advisers.
 - b. it cannot or can no longer reasonably be expected of him or her to act as confidential adviser of the complainant.

Article 2.5 Responsibility and reporting

1. The confidential advisers take notes on their activities and the discussions they have with complainants, which are solely for their own personal use.
2. Every year, the confidential advisers jointly report to the Executive Board on the number of, nature and scope of the cases being handled and cases that have already been settled, and the results of the mediation.
3. The details referred to under 2 are included in the annual report of the University.

Chapter 3 Complaints Committee for Undesirable Behaviour

Article 3.1 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 faculties and the service bureau. An even balance between male and female members is also sought.
7. The chairperson and deputy chairperson must possess the title LL.M. or Master of Laws.
8. Members of the Supervisory Board, the members and the secretary of the Executive Board, (deputy) directors/principals, student counsellors 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 3.2 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 sitting.

Article 3.3 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 faculty 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, he or she 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 3.4 Submitting a complaint

1. The complainant must submit the written complaint to the AHK Complaints Committee for Undesirable Behaviour, P.O. Box 15079, 1001 MG, Amsterdam, in a closed envelop marked 'CONFIDENTIAL'.
2. A written complaint must include:
 - a. the name of the complainant and 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. written documents or items of evidence relating to the complaint;
 - e. the date and the signature of the complainant.
3. Should the written 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 can decline to hear the complaint.

4. After receipt of the complete written 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 3.5 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. If the Complaints Committee finds, on the basis of the complaint, that no or insufficient attempts were made to address or deal with the complaint at the level of the study programme, the faculty or the University, the Complaints Committee will send a copy of the written complaint to the Executive Board with the request to examine if a solution is possible without it being handled by the Complaints Committee. If the Executive Board comes to the conclusion, after consultation with the management, that an internal handling of the complaint is not possible or advisable, or if no solution has been reached after four weeks, the Complaints Committee will proceed directly to handling the complaint.

Article 3.6 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 solution referred to under article 3.5 subsection 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 3.7 Hearing

1. The complaint is dealt with in a hearing. This takes place within four weeks after the statement of defence has been received. In the event of force majeure, this period can be extended by a maximum of two weeks.
2. Before the hearing, all documents pertaining to the case are brought to the attention of the members of the Complaints Committee.
3. Parties are summoned to the hearing by or on behalf of the chairperson.
4. Parties must attend in person and can be accompanied by a confidential adviser and/or defence counsel.
5. 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.
6. If parties are heard separately, the substance of the hearing will be shared with the other party aft the end of the hearing.
7. At the end of the hearing, both parties have the opportunity to react to the statement of the other person.
8. The Complaints Committee can, either at the request of the complainant and/or accused or otherwise, hear witnesses or informants.
9. 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.
10. A concise report of the hearing is made.

Article 3.8 Judgment of the Complaints Committee

1. The Complaints Committee delivers judgment 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 basis of a simple majority.
3. The judgment is shared in writing with both parties and the Executive Board.
4. The anonymity of witnesses as referred to in article 3.7, subsection 9 is guaranteed in the judgment.
5. The conclusion is substantiated and can include:
 - a. an unauthorised statement;
 - b. an inadmissible statement;
 - c. an unfounded statement;
 - d. an entirely or partially well-founded statement.
6. In the case of an unfounded statement, the Complaints Committee can make a reasoned recommendation to the Executive Board in order to support the rehabilitation of the accused.
7. In the case of an entirely or partially well-founded statement, the Committee can disclose its view about possible measures to be taken to the Executive Board.

Article 3.9 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. Every year, the Complaints Committee draws up a concise report of its activities for the Executive Board, also when there are no complaints.
5. In its annual report, the Committee strives to ensure that the information cannot be traced back to specific people or situations.

Chapter 4 Decision of the Executive Board; (disciplinary) measures

Article 4.1 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 receiving the judgment 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 3.8, subsection 6 and 7, giving reasons.
4. Prior to reaching a decision, the Executive Board consults the management concerned, unless it concerns a measure to be taken against the management itself.
5. Decisions to take (disciplinary) measures are included in the personnel record and/or the student record of the parties concerned.

Article 4.2 (Disciplinary) measures



1. If the Executive Board, or the management on behalf of the Executive Board, decides to take measures in response to the advice of the Complaints Committee, these measures can be of both a preventative and corrective nature or a combination of both, irrespective of the concrete situation, and the nature and severity of the complaint.
2. In the case of staff members, the following measures can be taken, with due observance of chapters P and Q of the Collective Agreement for Universities of Applied Sciences:
 - 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 amendment of the teaching programme to be followed;
 - 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 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 or the management on behalf of the Executive Board.

Chapter 5 Final provisions

Article 5.1 Legal protection

1. The Executive Board shall ensure, as far as possible, that not a single person will have his or her position and/or interests within the University compromised because he or she, as complainant, accused, witness, confidential adviser or member of the Complaints Committee, is or was involved in proceedings that fall under the ambit of this complaints procedure, unless there is a sanction as referred to in article 4.2 of this Procedure.

Article 5.2 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 3 (Complaints Committee).
2. If the procedure does not provide for cases related to chapter 3, the chairperson of the Complaints Committee will make a decision, following consultation with the other members.

Article 5.3 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 should be read as 'Supervisory Board'.

Article 5.4 Citing the Procedure



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

Article 5.5 Adoption and entry into force

1. This procedure was adopted by the Executive Board on 16 december 2015, after obtaining the consent of the University Council on 15 december 2015.
2. This procedure shall come into force on 16 december. The procedure of 9 November 2005 is revoked.