



Regulation on Undesirable Conduct of Amsterdam University of Applied Sciences

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AUAS REGULATION ON UNDESIRABLE BEHAVIOUR

1. Preamble

The AUAS is a widely accessible school where a large diversity of students and employees work together, study and carry out research. Social safety, a pleasant and healthy learning and working climate in which everyone feels welcome are important conditions for this. The AUAS attaches great importance to a working environment in which employees and students can work and study in a safe and healthy manner and in which everyone is treated with respect. The AUAS wants to be a place where undesirable conduct, such as discrimination, (sexual) intimidation, bullying and aggression is not accepted in any way. It must be possible to talk about undesirable conduct, and both staff and students must be accountable for such conduct. Even if a staff member or student does not directly experience undesirable conduct but witnesses it, they can take responsibility by raising the issue.

Undesirable conduct or behaviour leads to stress and insecurity and the employee or student who is directly or indirectly confronted with it will always be taken seriously. The AUAS investigates every report and takes appropriate measures if necessary, including prevention. Given the emotional impact of undesirable conduct and its consequences, initial assistance and support by a Confidant is essential. The AUAS therefore considers it of great importance that employees and students can turn to a Confidant with questions and complaints about undesirable conduct to informally and confidentially discuss what has happened to them, or to someone else. They can tell their story there and discuss what they can do.

The basic principle is that such situations are resolved where they arise. The AUAS has full confidence on the self-cleansing capability of the organisation, so that internal matters can also be solved internally. The Confidant will then help to find an informal solution. This means that employees and students, with the guidance of the Confidant, initially address the person concerned.

However, in practice there are some situations that cannot be solved in this way. An employee or student can submit a complaint about undesirable conduct to the Complaints Committee for Undesirable Conduct. The Confidant can assist them in this process if required. The possibility of this formal procedure indicates the importance that the AUAS attaches to combating undesirable conduct and the psychosocial consequences that such conduct can have. At the same time, a formal procedure offers room to investigate the complaint and to meet the requirements of hearing both sides of the argument.

With the establishment of the Confidants and the Complaints Committee for Undesirable Conduct, the AUAS can also receive signals that will encourage the improvement of social safety. With this focus on attitude and conduct, the Confidants and the Complaints Committee are an important component of the AUAS's entire complaints process, along with the Staff Ombudsman and other Complaints Committees.

The Staff Confidants have an additional task: in the event of a complaint from a staff member for whom there is no other possibility to make their complaint known and to resolve it, the Confidant can also act as a complaint advisor.

The Confidants' and the Complaints Committee's position, modus operandi, tasks and competences have been laid down in this regulation.

The third-person plural pro-noun "they" has been used in a singular form in this regulation to include all gender-types.

2. Other regulations related to this regulation and other relevant information sources

AUAS Employee Complaint Procedures;

AUAS Code of Integrity;

AUAS Staff Ombudsman Regulation;

Regulation on reporting suspected misconduct, irregularities or violations of integrity at AUAS; Regulation on performance and assessment (with regard to the review and objection procedure); Student Charter; Education and Examination Regulation of the student's degree programme.

3. Terms and Definitions

Article 1 In this regulation, the following terms are defined as follows:

Accused: student or employee of the AUAS, against whom a report or complaint is directed.

Executive Board: the management of the institution as referred to in Article 1.1 and 10.8 of the Higher Education and Scientific Research Act [WHW].

Amsterdam University of Applied Sciences (AUAS): a university maintained by the Stichting Hogeschool van Amsterdam (Amsterdam University of Applied Sciences Foundation).

Complaint: a complaint regarding undesirable conduct submitted to the Complaints Committee for Undesirable Conduct.

Complaints Committee for Undesirable Conduct: a committee as referred to in Article 10 of this regulation, to which a student or employee can submit a complaint about unacceptable conduct.

Complainant: A student or staff member of the Amsterdam University of Applied Sciences who submits a complaint about undesirable conduct to the Complaints Committee for Undesirable Conduct.

Employee: a person who under whatever title is employed by or carries out or has carried out work at the educational institution.

Report: notifying a confidant of personally experienced or observed undesirable conduct in which case Article 7 of this regulation applies.

Unacceptable conduct: any form of aggression, violence, discrimination, sexual intimidation, bullying or abuse of power which affects the performance of work or the ability to study without interruption.

- aggression and violence: verbal, psychological or physical harassment, threats or attacks

- discrimination: insulting people in any form on the grounds of their race, ethnicity, religion, gender, personal beliefs, disability and/or sexual orientation, or making a distinction on the basis of these factors

- sexual harassment, any form of verbal, non-verbal or physical conduct of a sexual nature, which has the purpose or effect of violating the dignity of a person

- bullying: structural intimidating conduct such as harassing, mocking, gossiping and ignoring

- abuse of power: abusing a position or powers in a relationship of authority or trust.

Student: A person who is or has been enrolled as a student, as referred to in Section 7.32 of the WHW, at the Amsterdam University of Applied Sciences A student who takes examinations but does not attend lectures, as referred to in Section 7.36 of the WHW, and a course participant are equated with a student.

Confidant: a person as referred to in Article 3 of this regulation, who is the first point of contact for employees and students in the event of undesirable conduct and to whom they can confidentially turn if they have experienced or observed undesirable conduct.

4. General provisions

Article 2 Duties of the Executive Board

- a. The Executive Board will ensure the prevention of undesirable conduct.
- b. The Executive Board will ensure the accessibility and availability of the Confidant, as well as the necessary facilities and educational opportunities.
- c. The Executive Board will ensure that the accessibility of the Confidant is sufficiently publicised.
- d. The bodies and employees of the AUAS will do their utmost to prevent undesirable conduct.

5. The Confidants

Article 3 Confidant

- a. The Executive Board appoints and facilitates three internal confidants for employees and three confidants for students.
- b. The confidants are appointed by the Executive Board for a period of four years, the first year of which is a trial period. Reappointment is possible, without restrictions of the number of reappointments.
- c. Any employee or student who has (had) to deal, directly or indirectly, with undesirable conduct can appeal to a Confidant.
- d. In principle, an employee or student is not assisted by a Confidant who works in the same organisational unit or who is or may in some other way be involved in the employee's work situation or the student's degree programme.
- e. Persons involved in the same situation with different interests will not be assisted by the same confidant.

Article 4 Tasks and profile of the Confidant

- a. The tasks of the Confidant are:
 - Assist and support of students and employees who have (had) problems with undesirable conduct.
 - Educate and inform the organisation on social safety.
 - Advise the organisation on social safety.
- b. The tasks of the Staff Confidant are to assist and support employees who have another complaint for which they can turn to the General Complaints Committee AUAS.

Article 5 Confidentiality

- a. The information available to the Confidant is confidential, unless there are legal obligations that would supersede this duty of confidentiality. The Confidant will inform the reporter of this reservation.
- b. This duty of confidentiality also applies to employees working for the Confidant and any other third party who may have access to this information through their involvement or in any other way.
- c. The Confidant will not contact third parties about an individual case without the consent of the reporter or the complainant, unless in their opinion this is absolutely necessary. In that case, they will consult with the Executive Board and justify their action in the report.

d. In breaching confidentiality, the Confidant will comply with the "Protocol for breaching confidentiality of the Confidant" of the National Association of Confidants.

Article 6 Position and protection of the Confidant

a. The Confidant is only accountable to the Executive Board for the performance of their duties.

b. The fact that an employee performs the duties of a Confidant will not directly or indirectly harm their career.

c. In order to fulfil their tasks, the Confidant will maintain contact with officials and bodies of the AUAS who are in a position to identify undesirable conduct.

d. The Confidant may consult one or more other confidants of the AUAS on how to handle a report or a complaint.

e. Students, employees and organisational units of the AUAS will, if so requested, assist the Confidant to the best of their ability in the execution of the tasks within the framework of this regulation.

Article 7 Report

a. An employee or a student, who is confronted with or learns of undesirable conduct, can report this to a Confidant.

b. A report will be made as soon as possible and in any case no later than one year after deregistration or dismissal.

c. A report may be made orally or in writing.

d. The Confidant will draw up a report of the report including at least the content, time and place of the event, the name of the complainant and the name of the accused.

e. Anonymous reports will not be dealt with.

f. The reporter may at any time request in writing that the Confidant cease dealing with the report.

Article 8 Accountability and report

a. The Confidant will draw up a report of the activities and conversations connected with a report or a complaint.

b. These reports are accessible only to the Confidant in charge and to the Complaints Committee, unless rules of mandatory law dictate otherwise.

c. The Confidants (for staff and students) annually report to the Executive Board on the number and nature of the consultations and reports they received and the complaints they assisted in (the annual report).

d. The Executive Board is responsible for informing staff and students of measures taken to prevent undesirable conduct within the Amsterdam University of Applied Sciences.

Article 9 Archiving and retention periods

a. After settling the report or complaint, the report thereof will be stored and kept in the Confidant's own records up until a year after the report mentioned in Article 8, paragraph c has been issued.

b. After storage, as referred to in paragraph a, the Confidant will destroy all other documents relating to the report or complaint.

c. The archives of a Confidant who is no longer employed as such will be transferred to another person in office or to a Confidant to be appointed by the Executive Board.

6. The Complaints Committee

Article 10 The Complaints Committee

- a. The Executive Board installs the Complaints Committee, hereinafter referred to as "the Complaints Committee".
- b. The Complaints Committee consists of three members and three deputy members and has a balanced composition.

Article 11 Submission of complaint

- a. An employee or a student of the Amsterdam University of Applied Sciences who is confronted with undesirable conduct at work or during their studies may submit a written complaint to the Complaints Committee as soon as possible, but no later than one year after deregistration or dismissal.
- b. The complaint should be submitted to the secretary of the Complaints Committee, quoting VERTROUWELIJK/CONFIDENTIAL, by e-mail: o.jungst@AUAS.nl or by post: Postbus 2130, 1000 CC Amsterdam.
- c. A complaint will at least contain the name, address and residence of the complainant, a description of the time, nature, content and place of the contested conduct, as well as the identity of the accused.
- d. Anonymous complaints will not be dealt with.
- e. The complainant may at any time request in writing that the Complaints Committee cease dealing with the complaint. This request will be honoured, unless the accused can demonstrate, on request, that they have a compelling interest in a judgement being made on the merits of the complaint.

Article 12 Rules of Procedure of the Complaints Committee

The Complaints Committee will adopt rules of procedure to be approved by the Executive Board. These rules contain further rules on the composition, appointment and procedure of the Complaints Committee.

Article 13 The decision of the Executive Board

- a. The Executive Board will follow the recommendations of the Complaints Committee, unless there are compelling reasons for the Executive Board not to do so. This is only possible if explicit reasons are given and the complainant, the accused and the Complaints Committee are informed accordingly.
- b. The Executive Board makes its decision within three weeks after receiving the conclusion and opinion.
- c. The decision of the Executive Board will be reasoned and will be immediately communicated to the complainant, the accused and the Complaints Committee in writing.
- d. The decision of the Executive Board is included in the file of those involved.

Article 14 Appeal

There is no right of appeal against the Complaints Committee's opinion, except for each person's right to apply to the civil court.

Article 15 Accountability and report

- a. The Complaints Committee will draw up an annual report of its findings and actions, even in the event that there are no complaints. This annual report is presented to the Executive Board.
- b. The Complaints Committee will ensure that the confidentiality of its work is not compromised by this annual report.

Article 16 Archiving and retention periods

- a. The reports of the hearings and the opinions issued by the Complaints Committee will be archived by the secretary.
- b. The persons involved have the right to inspect the archives and to receive copies of the documents relating to themselves.
- c. The secretary will manage the current files of the Complaints Committee. In addition to the secretary - and without prejudice to that stated above under b - only the Complaints Committee has access to the archives, unless mandatory rules provide otherwise.
- d. After the complaint has been closed, the relevant file will be stored for one year after the opinion has been issued in accordance with Article 16.
- e. After storage, as referred to in paragraph d, the secretary will destroy all documents relating to the complaint.

6. Final provisions

Article 17 Confidentiality

- a. Subject to the provisions of this regulation, all persons who, by virtue of their position, are involved in the process of a report or complaint are bound to secrecy.
- b. Subject to the provisions of this regulation, anyone who has or receives documents relating to a report or complaint because of their position is obliged to regard these as strictly confidential and to treat the documents as such.

Article 18 Entry into force and citation

This regulation will take effect on 22 October 2019, may be cited as the Regulation on Undesirable Conduct at the Amsterdam University of Applied Sciences and will replace the 2006 Regulation on Undesirable Conduct at the Amsterdam University of Applied Sciences.

Adopted by the Executive Board on 22 October 2019