
*This English translation serves solely for information purposes.
Please note that only the German version is legally binding.*

Policy on Protection against Discrimination and Sexual Harassment at Kaiserslautern University of Applied Sciences

This version was adopted by the Senate of Kaiserslautern University of Applied Sciences on 22 November 2023 and will come into force after publication in the University Gazette.

I. Living, studying and working together fairly at Kaiserslautern University of Applied Sciences

In line with its mission statement, Kaiserslautern University of Applied Sciences stands for social diversity and sees itself as a place of trust where all people are treated equally and treat each other equally, regardless of appearance, age, social and ethnic origin, religion or ideology, disability, family status, gender, gender identity and sexual orientation. Diversity in its various dimensions is valued and promoted.

A sense of equal rights and thus equal opportunities among members of the university is created through a mutual experience of fairness, respect and tolerance.

Based on this self-image, Kaiserslautern University of Applied Sciences considers itself responsible for actively promoting prompt recognition and discussion of cases of discrimination and sexual harassment as well as counselling and support for those affected. To this end, it is necessary to outline clear procedures and inform about possible sanctions.

II. Scope of the policy

This policy applies to all members and affiliates of Kaiserslautern University of Applied Sciences in accordance with the Basic Regulations and the German Higher Education Act (HochSchG) in their respective current versions. It applies to any form of discrimination and sexual harassment in the buildings and on the grounds of the university, in the performance of official duties and in the context of participation in university programmes and events, both in person and virtually, if at least one person involved belongs to the group of people referred to in Sentence 1.

III. Responsibility and obligations of the university, its members and affiliates

All members and affiliates are obliged to contribute to ensuring that Kaiserslautern University of Applied Sciences is a place of study and work characterised by equal rights, equal opportunities, openness, appreciation, mutual respect and tolerance. They promote a positive climate in studies, teaching, research and academic support services. This also includes maintaining polite and respectful social behaviour.

The members and affiliates of the university work towards non-discriminatory co-existence and offer support to individuals affected.

The university undertakes to take the necessary measures to provide protection against discrimination. Within the scope of its possibilities and in consultation with the parties affected, it will take action against persons who demonstrably act against this policy. The university will ensure that neither those affected nor any witnesses will suffer any disadvantages. The university is responsible for ensuring that all contact persons in the contact and complaints offices have appropriate competencies.

Individuals affected shall be supported in reporting cases of discrimination, degrading behaviour, bullying, stalking, sexual harassment, coercion or violence, in seeking counselling and, if necessary, in lodging complaints.

Special dependency relationships

Students, doctoral candidates, those working on their habilitation, apprentices and interns may be more reluctant to lodge complaints due to the dependency relationships and the gap in status and hierarchy, as they fear considerable disadvantages in the supervision situation and the qualification process. Therefore, even uninvolved parties should be sensitised to the same extent, i.e., not to look away when they observe or come to know about such incidents, but to offer direct help to those affected and to inform them of the appropriate contact and complaints offices and procedures within the university (cf. Sections VI and VII).

Special responsibilities

Special responsibility lies with all persons in management, training or qualification functions in teaching, research, administration and self-administration. They have a duty to

- contribute through their exemplary behaviour and suitable preventive measures to promoting fair, respectful and non-discriminatory interaction with one another and to respecting the integrity of all employees and students,
- ensure that dependency relationships are not exploited in studies or apprenticeships, or in the workplace,
- investigate complaints about and reports of discrimination, degrading behaviour, bullying, stalking, sexual harassment, coercion or violence, to counsel and support those affected or to provide them with appropriate help and to seek possible solutions, if necessary by making use of the designated offices at the university.

In addition to respect for the personal integrity and dignity of employees and students, human understanding, appreciative feedback and a co-operative management style are expected.

IV. Prevention

Kaiserslautern University of Applied Sciences develops measures for prevention to ensure fair co-operation as well as measures against discrimination and sexual harassment and informs its members and affiliates about the measures taken. These include, in particular:

- Publication of this policy and provision and dissemination of target group-oriented information to
 - o raise awareness for the problems of discrimination and sexual harassment and to provide appropriate solutions in the place of study and work
 - o provide low-threshold access to counselling and support services in cases of discrimination
 - o reflect on possible structural discrimination in administrative processes.
- Further training programmes in accordance with the university's resources for
 - o persons with special responsibilities (cf. Section III)
 - o the contact persons for counselling and complaints for various counselling topics
- Safety on the university campus and non-discriminatory infrastructure by
 - o identifying and eliminating hazardous locations in the buildings and on the grounds of the university
 - o selecting non-discriminatory facilities and equipment within the scope of the university's resources.
- The Diversity Management Office, which

- develops and initiates impulses and measures for preventing and optimising the agreed processes of counselling and complaints
- establishes an internal counselling network and professionalises counselling on this topic
- provides information and does public relations work within the university
- supports the organisational units involved in counselling and complaints regarding protection against discrimination through networking and information

V. Prohibition of discrimination and sexual harassment

Discrimination and sexual harassment are prohibited. They have a disruptive and damaging effect on the persons affected, on co-operation and on operations at the university. They create a climate of intimidation and humiliation that damages the health of those affected. They may constitute a breach of contractual obligations under employment, public service, civil service and university law.

Discrimination and sexual harassment manifest themselves in a variety of verbal and non-verbal forms, including physical assault or attacks. In accordance with this policy, all forms of action and behaviour that are perceived by those affected as a violation of their dignity or their personal rights and that contribute to disadvantaging, degrading, insulting or coercing a person are considered forms of discrimination and sexual harassment if they are related to the aspects specified in Section I.

For the definition of discrimination and sexual harassment, the provisions of Section 3 of the German General Act on Equal Treatment (AGG) apply. In addition, all cases of stalking and bullying are also included as discrimination within the scope of this policy.

Discrimination and sexual harassment based on the exploitation of dependency relationships in apprenticeships and in the workplace as well as in studies, in particular under threat of personal or professional disadvantages, are considered particularly severe.

Discrimination and sexual harassment include, for example:

- Degrading remarks or jokes about people, their bodies, age, behaviour, ethnicity, physical or mental abilities
- Potentially discriminating or sexually harassing content in courses and examinations that is not necessary for the subject matter
- Disparaging comments in relation to another gender
- Putting up, disseminating or showing media of any kind (posters, screensavers, calendars, software) with racist, sexist, pornographic or otherwise discriminatory content, unless it is for academic purposes
- Sexual harassment that has the purpose or effect of violating the dignity of the person concerned, in particular through
 - sexually degrading or suggestive written or verbal statements, gestures or comments with a sexual connotation
 - unwanted touching or physical assault as well as coercion to perform sexual acts
- Bullying against a person, for example through regular humiliation, threats or acts of violence, repeated hostility and exclusion, assertion of untrue facts or withholding of information relevant to studies or work, assignment of pointless, insulting, unsolvable, unhealthy tasks or no tasks at all

- Stalking a person, in particular through the intentional and repeated following, ambushing, stalking and harassing of a person, for example through unwanted phone calls, text messages, postings on social media or declarations of love.

VI. Counselling services in cases of discrimination and sexual harassment

Members and affiliates of the university can seek counselling and information about their rights from an internal contact office at Kaiserslautern University of Applied Sciences (informal procedure) if they feel affected by discrimination or sexual harassment.

The contact offices provide confidential contact and initial guiding advice in cases of discrimination and sexual harassment. Contact can be made in any form, even anonymously. Any further steps will only be taken with the consent of those affected.

The contact persons listen to those affected and tailor their advice to the existing needs. If necessary, and only at the request of the person affected, the contact office can consult other relevant internal offices. In the course of the process, further support measures and external counselling offices can also be recommended. It goes without saying that those affected can be accompanied by one or more people they trust.

During the meeting, the facts of the case and the concerns are first discussed and options for support and action are pointed out. Those affected also receive information from the contact offices on the complaints procedure in accordance with Section 13 AGG (formal procedure), which is not carried out by the contact offices.

Depending on the individual case and only at the request of those affected, there is also the option of internal conflict moderation, which, if the persons involved agree, is moderated by the dean of the respective department or a member of the Executive University Board. The persons selected for conflict moderation conduct discussions with the persons involved and document the results. The aim is to enable conflict-free further co-operation on the job and in studies.

The counsellors and all persons consulted are subject to a duty of confidentiality, from which they can only be released by the persons affected.

If it becomes clear during the counselling session that a complaint is desired, the person affected is also referred to the official Complaints Office in accordance with Section 13 AGG. Those affected can be accompanied in the complaints procedure by a counsellor from a contact office. If a criminal offense is suspected, the victim is either advised to contact the victim protection counselling service of the police or the police directly or, if expressly requested, is referred there.

Contact points for students are:

- Central Equal Opportunities Officer of the university, their deputy and the Equal Opportunities Officers of the departments
- The Diversity Management Office
- Disability Officer for students
- AStA
- Liaison professors of a department, if appointed

Contact points for employees are:

- Line managers
- Staff Council
- Central Equal Opportunities Officer of the university, their deputy and the Equal Opportunities Officers of the departments
- The Diversity Management Office
- Representatives for the severely disabled

VII. Complaint pursuant to Sec 13 of the German General Act on Equal Treatment (AGG), Complaints Office

In addition or as an alternative to using a contact point for counselling, a formal complaint can be lodged in the event of discrimination or sexual harassment, in accordance with Section 13 AGG (formal procedure). The Complaints Office is part of the Legal Affairs Office. Complaints can also be received by the university's Equal Opportunities Officer in accordance with Section 4 (5) Sentence 4 HochSchG. These complaints are then forwarded to the Complaints Office. The Executive University Board can also appoint other persons as complaints officers.

The complaint should contain the following information:

- Description of the situation(s) and the behaviour or statements of the person(s) involved
- Person against whom the complaint is directed
- Indication of persons who observed the event, if applicable
- Description of actions that may have already been taken
- Indication of persons or offices that have already been consulted
- Indication of persons or offices that should still be consulted

A complaint can be made informally, for example by telephone, email, or in writing. In principle, a complaint can also be made anonymously. However, if employees assert claims in accordance with Section 15 AGG (e.g., compensation), a complaint must be submitted by name and in writing or for the record. Pursuant to Section 15 (4) AGG, such claims must also be asserted in a timely manner, generally within two months of becoming aware of the discrimination or sexual harassment.

A complaint can be withdrawn or suspended at any time.

If the Complaints Office is visited, the person making the complaint may be accompanied by one or more persons they trust.

After receiving the complaint, the Complaints Office will inform the person making the complaint about their rights and obligations, and about the further procedure.

The accused person must then be informed of the complaint by the Complaints Office without delay. It shall give the accused person the opportunity to make a written or oral statement within a reasonable period of time. If desired, the accused person may be accompanied by a person they trust.

The Complaints Office may involve other persons in the processing of the complaint, subject to confidentiality and in agreement with the person making the complaint, provided this is necessary from a factual or professional point of view.

If possible and necessary, the Complaints Office will investigate the facts of the case. It documents the hearings and the incident identified. Where possible, oral statements should be signed by the persons making the report. The Complaints Office informs the parties involved and the Executive University Board of the outcome of its investigation. It can recommend actions or consequences to the Executive University Board. The Executive University Board decides whether discrimination or sexual harassment has occurred and initiates or recommends further actions and consequences, or the decision on these; see Section VIII.

Following the complaints procedure, the persons involved have the option of carrying out conflict moderation in accordance with Section VI, provided that all persons involved agree.

VIII. Actions and consequences

If discrimination or sexual harassment has been identified, the President or another authorised body will decide on actions and consequences to prevent such adverse treatment. These may include, among other things:

- Implementation of preventive or organisational measures
- Conduction of a formal disciplinary interview
- Initiation of disciplinary proceedings and imposition of disciplinary measures
- Verbal or written reprimand
- Written caution
- Termination with or without notice
- Transfer to another position within or outside the university
- Exclusion from an academic course
- Exclusion from the use of university facilities
- Ban from the premises
- Cancellation of enrolment

IX. Handling of data and documentation

In accordance with the principles of data minimisation, the number of persons to be informed about a case shall be kept as small as possible. Unless otherwise stipulated, all persons involved in this procedure are obliged to treat the data made available to them confidentially and not make it accessible to third parties, unless the transfer is regulated by another legal provision or the parties to the dispute have given their express consent to this. Documents provided by the parties concerned must be treated in accordance with the General Data Protection Regulation.

The contact points for counselling and the complaints offices record the cases of conflict reported in anonymized form according to category (e.g., discrimination, degrading behaviour, bullying, stalking, sexual harassment, coercion or violence) and status groups (students, employees) as well as the hierarchical gradient, if applicable. The data from all contact offices is surveyed once a year by the Diversity Management Office.

The Complaints Office and the Diversity Management Office report annually to the Executive University Board and the Equal Opportunities Officer.

X. Entry into force

This directive shall enter into force on the day following its publication in the University Gazette of Kaiserslautern University of Applied Sciences.

Kaiserslautern, November 24, 2023

Prof. Dr.-Ing. Hans-Joachim Schmidt
President of Kaiserslautern University of Applied Sciences

Appendix 1: Excerpt from the German General Act on Equal Treatment (AGG) of 14 August 2006

Section 1 Purpose of the Act

The purpose of this Act is to prevent or to stop discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation.

Section 3 Definitions

(1) Direct discrimination is taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on any of the grounds referred to in section 1. Direct discrimination on the ground of gender is also taken to occur in relation to section 2 (1) nos. 1 to 4 in the event of the less favourable treatment of a woman on account of pregnancy or maternity.

(2) Indirect discrimination is taken to occur where an apparently neutral provision, criterion or practice is liable to put persons at a particular disadvantage compared with other persons on any of the grounds referred to in section 1, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

(3) Harassment is deemed to be discrimination when unwanted conduct in connection with any of the grounds referred to in section 1 takes place with the purpose or effect of violating the dignity of the person concerned and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

(4) Sexual harassment is deemed to be discrimination in relation to section 2 (1) nos. 1 to 4, when unwanted conduct of a sexual nature, including unwanted sexual acts and requests to carry out sexual acts, physical contact of a sexual nature, comments of a sexual nature, as well as the unwanted showing or public exhibition of pornographic images, takes place with the purpose or effect of violating the dignity of the person concerned, in particular where it creates an intimidating, hostile, degrading, humiliating or offensive environment.

(5) An instruction to discriminate against a person on any of the grounds referred to in section 1 is deemed to be discrimination. Such instruction is in particular taken to occur in relation to section 2 (1) nos. 1 to 4 where a person instructs an employee to engage in conduct which discriminates or can discriminate against another employee on one of the grounds referred to in section 1.

Section 7 Prohibition of discrimination

(1) Employees are not permitted to suffer discrimination on any of the grounds referred to in section 1; this also applies where the person committing the act of discrimination only assumes the existence of any of the grounds referred to in section 1.

(2) Any provisions of an agreement which violate the prohibition of discrimination under subsection (1) are ineffective.

(3) Any discrimination within the meaning of subsection (1) by an employer or employee is deemed to be a violation of their contractual obligations.

Section 12 Employer actions and duties

(1) Employers have the duty to take measures necessary to ensure protection against discrimination on any of the grounds referred to in section 1. This protection also covers preventive measures.

(2) Employers are required to draw attention to the inadmissibility of such discrimination in a suitable manner, in particular within the context of training and further training, and are required to use their influence to ensure that such discrimination does not occur. Where an employer has trained his or her employees in an appropriate manner for the purpose of preventing discrimination, the duties referred to in subsection (1) are deemed to have been fulfilled.

(3) Where employees violate the prohibition of discrimination under section 7 (1), their employer is required to take suitable, necessary and appropriate measures, chosen in a given case, to put a stop to the discrimination, including cautioning, moving, relocating or dismissing the employee in question.

(4) Where employees are discriminated against, in the pursuance of their profession, within the meaning of section 7 (1) by third parties, their employer is required to take suitable, necessary and appropriate measures, chosen in a given case, to protect the employee in question.

(5) This Act and section 61b of the Labour Courts Act (*Arbeitsgerichtsgesetz*), as well as information concerning the body competent to handle complaints pursuant to section 13 is to be made known in the enterprise or public authority. This may be done by putting up a notice or displaying information leaflets in a suitable place or by using the information and communication channels normally used in the enterprise or authority.

Section 13 Right of complaint

(1) Employees have the right to lodge a complaint with the competent body in the undertaking, enterprise or authority if they feel discriminated against in connection with their employment relationship by their employer, superior, another employee or third party on any of the grounds referred to in section 1. The complaint is to be examined and the complainant informed of the result of the examination.

(2) The rights of worker representatives remain unaffected.

Section 15 Compensation and damages

(1) In the event of a violation of the prohibition of discrimination, the employer has the duty to compensate the damage arising therefrom. This does not apply where the employer is not responsible for the breach of duty.

(2) Where the damage arising does not constitute economic loss, the employee may demand appropriate compensation in money. This compensation may not exceed three monthly salaries in the event of non-recruitment if the employee would not have been recruited if the selection had been made without unequal treatment.

(3) Employers are only under the obligation to pay compensation where collective bargaining agreements have been entered into if they acted with intent or with gross negligence.

(4) Any claim resulting from subsection (1) or (2) must be asserted in writing within a period of two months, unless the parties to a collective bargaining agreement have agreed otherwise. In the case of an application or promotion, the period begins to run on the date on which the rejection is received and in other cases of discrimination on the date on which the employee learns of the discrimination.

(5) This is without prejudice to other claims against the employer resulting from other legal provisions.

(6) Any violation on the part of the employer of the prohibition of discrimination under section 7 (1) does not justify a claim to the establishment of an employment relationship, a vocational training relationship or to promotion, unless such a relationship or promotion results from another legal ground.

https://www.gesetze-im-internet.de/englisch_agg/englisch_agg.html#p0014 (October 02, 2023)

Appendix 2: Extract from the Rhineland-Palatinate Higher Education Act of 23 September 2020

Section 4 Equal opportunities, Equal Opportunities Officer, equal opportunities plan

(5) The Equal Opportunities Officer has the task of supporting the Executive University Board, the other bodies of the university and the committees formed by them in the fulfilment of tasks in accordance with subsections 1 to 3 and to report regularly to the Executive University Board and the Senate on her activities. She has the right to participate in all social, organisational and human resources measures relating to the equality of women and men, the compatibility of studies or career and family or the protection of members and affiliates of the university against harassment and sexual harassment at the place of work or study, and can propose measures in these areas to the Executive University Board. In order to fulfil these tasks, she must be informed in good time and comprehensively of all measures in which she can participate; she can submit statements, participate in meetings of all committees in an advisory capacity and submit proposals; her statements must be attached to the documentation. She also receives complaints of members and affiliates of the university about harassment and sexual harassment at the place of work or study in accordance with section 3 (3) and (4) of the General Act on Equal Treatment (AGG) of 14 August 2006 (BGBl. I p. 1897), last amended by Article 8 of the Act of 3 April 2013 (BGBl. I p. 610). Section 3 (3) and (4) and sections 7, 12 and 13 AGG apply accordingly to all members and affiliates of the university who are not employees of the university. Apart from that, section 23 (2) and (3) sentences 2 and 3, section 24 (2), (4) and (6) as well as section 25 (1) sentences 3 and 4 and (2) and (3) of the Rhineland-Palatinate State Act on Equal Treatment (LGG) apply accordingly.

Section 69 Cancellation, withdrawal and revocation of enrolment

(3) Furthermore, the enrolment of those students may be revoked who

1. Use violence, incite violence or threaten violence to obstruct or attempt to obstruct the proper operation of a university facility, the activity of a university body or the organisation of a university event, or prevent or attempt to prevent a member of the university from exercising their rights and duties, or
2. Use or attempt to use the university, its buildings or facilities for criminal offences or cause significant damage to them and thereby render them unfit for their intended use, or
3. Intentionally sexually harass members or affiliates of the university on campus within the meaning of section 3 (4) AGG or stalk them within the meaning of section 238 of the German Criminal Code, or
4. Have been legally convicted of a criminal offence against life, sexual self-determination, physical integrity or personal freedom, if the offence and the conviction are not yet subject to a prohibition on exploitation pursuant to section 51 of the German Federal Criminal Register Act and the nature of the offence committed gives rise to concerns that it may endanger or disrupt the course of studies, or
5. Have caused considerable damage to the university or the state through serious culpable misconduct or the commission of criminal offences.

The same applies to students who take part in the actions mentioned in sentence 1 no. 1, 2 or 5 or who repeatedly violate orders that have been issued against them on the basis of domiciliary right (section 80 (3)) due to a violation of their duties in accordance with section 36 (4).

(6) If the Executive University Board comes to know of facts that justify the suspicion of an offence under subsection 3 sentence 1 or sentence 2 or subsection 4, it must investigate the facts of the case and determine the incriminating, exonerating and other circumstances that may be relevant to the decision on an action and give the persons concerned the opportunity to make a statement on the suspicion. If the Executive University Board deems an offence to have been committed, the results of the investigation shall be submitted to the committee without delay in accordance with subsection 7. The committee shall conduct further investigations if it deems this necessary. The persons concerned shall be given the opportunity to make an oral or written statement on the matter; they may avail themselves of legal assistance in doing so. The proceedings shall be concluded within six months.

(7) A decision on the revocation of enrolment pursuant to subsection 3 or subsection 4 and the threat thereof shall be made by a committee consisting of:

1. An external presiding member who is qualified to hold judicial office,
2. One member each from the group of university lecturers and the students of the university.

The member according to sentence 1 no. 1 is appointed by the Executive University Board on the recommendation of the University Council, the members according to sentence 1 no. 2 are appointed by the Executive University Board on the recommendation of the Senate. The committee adopts its own by-laws at its constituent meeting.

<https://landesrecht.rlp.de/bsrp/document/jlr-HSchulGRP2020rahmen/part/X> (October 02, 2023)