

Unacceptable Behavior Complaints Regulations

Introduction

Tilburg University wants to eliminate unacceptable behavior including (sexual) harassment, aggression, violence, and discrimination. To that end, the Executive Board has adopted a Code of Conduct and has appointed confidential advisors whose task it is to offer initial assistance to those who have been or are being confronted with unacceptable behavior.

1. DEFINITIONS

- 1.1. In these Regulations, unacceptable behavior is defined as:

Direct or indirect, unwanted statements or actions, expressed in verbal, non-verbal, or physical conduct towards a person which is experienced by this person as uninvited and unwelcome and constitutes a breach of this person's integrity, leading to psycho-social work-, study-related or other pressure, including (sexual) harassment, discrimination, aggression and violence, and bullying in circumstances directly related to work or study.

Sexual harassment is defined as any form of verbal, non-verbal, or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment.

Discrimination is defined as treating an employee, student, or visitor differently than another person is, has been, or would be treated in a similar situation based on religion, philosophy of life, political opinion, race, sex, nationality, homo- or heterosexual orientation, marital state, age, handicap, or chronic illness, or based on whatever ground as referred to in Article 1 of the Netherlands Constitution.

Aggression and violence are defined as incidents whereby an employee, student, or visitor is mentally or physically harassed, threatened, or attacked in circumstances directly related to work or study.

Bullying is defined as all forms of intimidating behavior of a structural nature, by one or more employees (colleagues, supervisors) or students aimed against one employee or student or against a group of employees or students.

- 1.2. In these Regulations, the following definitions apply.

Employee: a person who is or has been employed with a mandate from or under the authority of Tilburg University.

Student: a person as referred to in Article 7.59a of the Higher Education and Research Act (Wet op het Hoger onderwijs en Wetenschappelijk onderzoek). For the purposes of these Regulations, contract students also come under this definition.

Visitor: a visitor to Tilburg University who is registered as a user of a Tilburg University facility other than as a student or employee.

Executive Board: the Tilburg University Executive Board.

Complainant: the employee, student, or visitor who submits a complaint to the Complaints Commission under these Regulations.

Alleged perpetrator: the employee, student, or visitor about whose conduct a complaint has been submitted to the Unacceptable Behavior Complaints Commission.

Complaint: a complaint under these Regulations by an employee, student, or visitor about unacceptable behavior as referred to in 1.1, experienced within the individual work or teaching situation.

Complaints Commission: the Unacceptable Behavior Complaints Commission, also referred to as the Commission, established by the Executive Board pursuant to these Regulations.

Confidential advisor: a person appointed as such by the Executive Board, trained to support complainants during the complaints procedure.

Decision: the decision by the Executive Board following the Commission's advice.

Participation body: the student section of the University Council / the Tilburg University Labor Representation Board.

- 1.3 The Complaints Regulations apply to employees, students, and visitors of Tilburg University to the extent that the unacceptable behavior complained about has taken place on campus and/or is directly related to work or study.

2. CONFIDENTIAL ADVISORS

- 2.1 In consultation with the participation body, the Executive Board appoints a minimum of three confidential advisors, including at least one man and one woman, and at least one member of the academic staff and one member of the support and management staff. As regards the performance of their duties, the confidential advisors are answerable to the Executive Board only.
- 2.2 The duties and competencies of the confidential advisors include:
 - acting as a contact for the employee or student who has been faced with unacceptable behavior;
 - assisting, informing, counseling, and advising the employee or student on ways to end the unacceptable behavior;
 - advising or assisting in any further steps to be taken by the employee or student;
 - assisting and counseling the employee or student faced with unwanted behavior in submitting a complaint to the Complaints Commission, and in the hearing by the Complaints Commission; providing aftercare to the employee or student who has been faced with unacceptable behavior;
 - advising, on request as well as on their own initiative, on policy matters concerning unacceptable behavior based on signals received and problems identified;
 - reporting, every year before March 1, to the Executive Board in writing on the activities in the previous calendar year, using anonymous data.
 - consulting with the Executive Board.
- 2.3 In principle, the confidential advisors do not take any action on behalf of the employee or student without consulting him/her.
- 2.4 The confidential advisors are bound by confidentiality regarding the facts that have come to their attention in connection with the performance of their duties. This rule can be deviated from only with the express consent of the employee or student involved. The duty to maintain confidentiality does not lapse when the confidential advisor is no longer employed as such.
- 2.5 The confidential advisors have the right to decline to handle a case.
- 2.6 The provisions in 2.4 and 2.5 apply to the extent that the law does not provide otherwise.
- 2.7 The confidential advisors are authorized to consult external experts. They will do so in consultation with the Executive Board, without revealing the identity of the complainant. This means that budget is made available for this purpose when the need arises.

3. THE UNACCEPTABLE BEHAVIOR COMPLAINTS COMMISSION

- 3.1 The Executive Board establishes an Unacceptable Behavior Complaints Commission.
- 3.2 The Commission consists of three members and a minimum of three substitute members, including one acting chairperson, at least one lawyer, and one external member. The Commission includes both men and women.

- 3.3 The members are appointed by the Executive Board. Appointment is for two years. At the end of this period, the members are eligible for reappointment immediately.
- 3.4 The Commission is supported by an administrative secretary, appointed by the Executive Board.
- 3.5 The members of the Complaints Commission, the administrative secretary of the Commission, and all those involved in the treatment of the complaint are bound by confidentiality regarding the facts that have come to their attention in connection with the complaint.
- 3.6 A member of the Complaints Commission dealing with a complaint may be challenged by the complainant or the alleged perpetrator on the grounds of facts or circumstances which might prejudice that member's impartiality. A request to this effect must be properly substantiated.
- 3.7 The other members of the Complaints Commission decide on the challenge.
- 3.8 Members of the Complaints Commission have the right to decline to handle a case.

4. SUBMITTING A COMPLAINT

- 4.1 The complainant submits the complaint to the Commission in writing. The complaint is sent in an envelope addressed to the secretary and marked 'Private and confidential'.¹ A student can also submit a complaint to the Central Disputes and Complaints Desk (Centraal Loket Geschillen en Klachten).
- 4.2 The Complaints Commission immediately acknowledges receipt of the complaint in writing to the complainant.

5. ADMISSIBILITY

- 5.1 To be admissible, the complaint must meet the following requirements.
 - a. The complaint is dated and signed.
 - b. The complaint contains a substantiated description of the unacceptable behavior experienced and states the period in which it has taken place.
 - c. The complaint states the name and address of the complainant and the name of the alleged perpetrator.
 - d. No previous complaint has been submitted on this behavior that was dealt with under these Regulations.
 - e. The behavior did not take place more than five years before the complaint was submitted.
 - f. The complaint does not relate to behavior that is or has been the subject of proceedings before a court of law.
 - g. The complaint does not relate to behavior that is subject to a criminal investigation or is being prosecuted.
- 5.2 If the requirements of Article 5.1 are not met, the Complaints Commission advises the Executive Board to declare the complaint inadmissible, provided that the complainant has been given the opportunity to remedy any omission regarding Article 5.1, under a, b, or c. If the complaint is inadmissible, the complainant is informed in writing without delay but not later than four weeks after the complaint was received.

6. THE PROCESSING OF THE COMPLAINT

- 6.1 The Complaints Commission investigates the actual facts complained about.
- 6.2 The Complaints Commission informs the alleged perpetrator of the complaint and hears the complainant and the alleged perpetrator. Parties are heard in each other's presence unless one of the parties objects beforehand.
- 6.3 The file is confidential and the sessions of the Complaints Commission take place behind closed doors.

¹ Tilburg University, Unacceptable Behavior Complaints Commission, to the attention of the secretary, Room C125, Warandelaan 2, 5038 AB Tilburg (mark the envelope as "private and confidential").

- 6.4 Complainant and alleged perpetrator may be represented by a lawyer in all sessions of the Complaints Commission.
- 6.5 Having heard both parties, the Complaints Commission can decide, whether at the request of the complainant or alleged perpetrator or otherwise, to hear witnesses or experts.
- 6.6 Based on the progress of the case, the Complaints Commission can advise the Executive Board to take temporary measures, if and to the extent that this is in the interest of the investigation or is required by the position of the persons involved in the investigation.
- 6.7 A report is made of a hearing. It is signed for approval by the person heard, with or without comments, and subsequently forms part of the Complaints Commission's file.
- 6.8 The Complaints Commission deals with a complaint without delay, unless this would interfere with a careful procedure.

7. REPORT AND ADVICE

- 7.1 The Complaints Commission reports without delay to the Executive Board on the findings relating to its enquiries. With the report, the Complaints Commission provides advice on how to settle the complaint. The Complaints Commission sends a copy of the report and the advice to the complainant and the alleged perpetrator.
- 7.2 The report and the advice of the Complaints Commission to the Executive Board are confidential.
- 7.3 If relevant to the complaint, the advice can also contain
 - a. advice to the Executive Board with respect to any measures to be taken;
 - b. advice on the aftercare process.

8. DECISION

After having received the Complaints Commission's report and advice, the Executive Board makes a decision on how to settle the complaint. If the Executive Board makes a decision that differs from the Complaints Commission's advice, it gives its reasons for doing so.

9. DEADLINES

- 9.1 The processing of the complaint takes place within ten weeks of receipt of the complaint.
- 9.2 The Executive Board or the Complaints Commission may postpone the processing for a maximum of four weeks. The complainant and the alleged perpetrator are informed in writing of any postponement.
- 9.3 Further postponement is possible if the complainant agrees in writing.

10. TEMPORARY MEASURES AND ARRANGEMENTS IN RESPONSE TO THE ADVICE

- 10.1 The Executive Board may at all times, whether at the request of the Complaints Commission or the confidential advisor or otherwise, take temporary measures if, as a result of (suspected) unacceptable behavior, a situation is created that is untenable for one or more people directly involved or if this is considered necessary in the interest of the investigation.
- 10.2 The temporary measures and arrangements which the Executive Board may take regarding the alleged perpetrator also depend on the position of the alleged perpetrator.
- 10.3 The consequences which the Executive Board may attach to a well-founded complaint include sanctions against the person who has been found guilty of unacceptable behavior;
 - for employees: disciplinary measures in conformity with the Collective Labour Agreement (CAO-NU) and the provisions on the employment contract in the Dutch Civil Code;
 - for students: disciplinary action as referred to in Article 7.57h of the Dutch Higher Education and Research Act and the Tilburg University Student Charter;
 - other persons: access to the University grounds and buildings may be refused for a certain period and, to the extent possible, contractual relations may be terminated or not extended.

11. COMPLAINTS FILE

The file on a complaints procedure will be destroyed after five years.

12. MISCELLANEOUS PROVISIONS

- 12.1 An employee or student who has been involved, in whatever manner, in a complaints procedure as set out in these Regulations will not suffer any negative consequences as to his/her position within Tilburg University. This principle does not apply to a person who has been found guilty of unacceptable behavior if a measure has been taken regarding.
- 12.2 Every year, the Complaints Commission reports to the Executive Board on the number and type of complaints and the advice provided in each instance, using anonymous data.
- 12.3 The Executive Board decides in cases not provided for by these Regulations.

13. PARTICIPATION BODY

- 13.1. The Executive Board annually informs the participation body of the confidential advisors' report on the number and type of complaints, using anonymous data.
- 13.2. The Executive Board annually informs the participation body of the Complaints Commission's report on the number and type of complaints and the advice provided in each instance, using anonymous data.

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