

Complaints Procedure for Undesirable Behavior TU/e

The Executive Board of Eindhoven University of Technology has hereby decided to establish a uniform procedure for dealing with complaints relating to sexual harassment, aggression, violence, intimidation, bullying and discrimination, as referred to in the Code of Conduct for Undesirable Behavior TU/e.

Article 1 Confidential counsellor and complaints committee

1. Anybody working at or for Eindhoven University of Technology or studying at Eindhoven University of Technology who is confronted with sexual harassment, aggression, violence, intimidation, bullying or discrimination by an employee or student of Eindhoven University of Technology can turn to the confidential counsellors or submit a complaint to the complaints committee.

2. A complaint must be made within three years of the incident of aggression, violence, harassment, bullying or discrimination, unless the complaint concerns sexual harassment. The reporter no longer needs to be employed at TU/e or to be enrolled as a student at TU/e when submitting the complaint.

3. The provisions of the previous sections are without prejudice to the right of the reporter to appeal to the courts.

Article 2 Confidential counsellor

1. There are at least two confidential counsellors, appointed by the Executive Board for a period of four years. Reappointment for a subsequent period of four years is possible.

2. The confidential counsellors report annually to the Executive Board on the work carried out. In addition, they have annual consultations with the Secretary of the University.

Article 3 Duties of confidential counsellors

1. The confidential counsellors have the following duties:

- Acting as a point of contact for persons confronted with sexual harassment, aggression, violence and intimidation, bullying or discrimination
- Offering and providing follow-up care to those persons
- Advising those who report undesirable behavior on possible further steps to be taken and possible guidance in relation to this
- Discussing, with the reporter, steps aimed at finding a solution
- Providing guidance at the request of persons who are considering submitting a complaint to the complaints committee
- Providing solicited and unsolicited recommendations to the (mandated) competent authority in regard to matters concerning undesirable behavior

2. The confidential counsellors are obligated to provide confidentiality in regard to everything that they come to know while acting as a confidential counsellor.

Article 4 Composition of the complaints committee

1. The Executive Board shall set up a complaints committee for undesirable behavior which consists of three members, including an external chair, an external deputy chair and two members and two deputy members. If a student is involved in a complaint, a student member shall be part of the committee which handles this. If the votes are tied as a result of this, the chair has the deciding vote.
2. The appointment of the members and deputy members, including the chair and deputy chair, shall be made by the Executive Board. When appointing the members and deputy members, the Executive Board shall consider (as far as possible) the spread of the members and deputy members from across various sections and disciplines of the university. The members and deputy members of the complaints committee are appointed for four years, with the possibility of one reappointment.
3. The members of the Executive Board, the members of the Supervisory Board, the members of the Department Board, the directors of educational and research institutes, the directors of services and the confidential counsellors are ineligible for appointment.
4. The complaints committee is assisted by a secretary assigned by the Executive Board. This secretary is appointed for a period of four years. Reappointment for a subsequent period of four years is possible.
5. At least one woman and one man sit on the complaints committee.
6. A member of the complaints committee will be replaced by a deputy member if they are or have been directly or indirectly involved in a complaint submitted about sexual harassment, aggression, violence, intimidation, bullying or discrimination, or if the complainant or defendant has indicated that they wish to object to a member of the complaints committee.
7. Within the complaints committee, the Executive Board ensures the presence of sufficient expertise regarding the issues of sexual harassment, aggression, violence, intimidation, bullying and discrimination.
8. The members and deputy members shall be bound by an obligation of confidentiality, notwithstanding their duty to provide recommendations to the Executive Board.

Article 5 Duties and working method of the complaints committee

1. The duties of the complaints committee are to:
 - a. investigate complaints submitted to it and provide recommendations to the Executive Board on this basis.
 - b. provide solicited and unsolicited recommendations on policy for combating sexual harassment, aggression, violence, intimidation, bullying and discrimination in the context of work and/or study.
2. The complaints committee has the authority to:
 - a. to seek advice from experts if this is considered necessary for the performance of its work. In so far as costs are involved, prior permission is required from the Secretary of the University. The complaints committee is also authorized to obtain information from informants.
3. The complaints committee determines its own working method.
4. At least once a year, the confidential counsellors and the complaints committee will consult with one another.

Article 6 Submitting a complaint

1. A complaint should be submitted by the reporter in writing to the secretary of the complaints committee and should contain:

- the name of the reporter and the name of the service/department
- a description of the confrontation with sexual harassment, aggression, violence, intimidation, bullying or discrimination
- the date/period/time of the confrontation with sexual harassment, aggression, violence, intimidation, bullying or discrimination
- the name or names of the defendant(s)
- a description of any steps taken by the reporter
- any documents relating to the matter

2. Anonymous complaints will not be dealt with.

Article 7 Complaints procedure

1. Within two weeks of a complaint being submitted, the complaints committee will decide whether or not the complaint is admissible and will notify the reporter accordingly.

2. If the complaint is declared admissible and is taken into consideration, the complaints committee will send a copy of the complaint, as well as the written documents submitted, to the defendant and to the Executive Board.

3. If the complaint is taken into consideration, the reporter and then the defendant will be heard separately by the complaints committee. A report will be made of the hearing.

4. The reporter and the defendant may be assisted by legal counsel or an authorized representative during the hearing.

5. Anyone summoned to be heard by the complaints committee is obligated to make an appearance, provide information and maintain confidentiality.

6. The hearings and meetings of the complaints committee are not public.

Article 8 Recommendations

1. The complaints committee will issue a written report to the Executive Board within six weeks of receiving an admissible complaint. In doing so, it will provide the Executive Board with a reasoned opinion on whether the complaint is well-founded or unfounded and a recommendation on any measure(s) or sanction(s) to be taken. A copy of the hearing report is attached.

2. If the report and the recommendation cannot be submitted to the Executive Board within the period referred to in the first section, the complaints committee will inform the reporter and the defendant, stating the reasons for the delay. It will state a reasonable period of time within which the report and recommendation can be expected.

3. The recommendation may concern:

a. for personnel:

- the imposition of a measure which is proportionate to the undesirable behavior by the defendant and/or

- a course to be followed and/or
- entering into mediation and/or
- another response

b. for students:

- denial of access to the buildings and grounds on the basis of article 7.57h WHW and/or
- a course to be followed and/or
- entering into mediation and/or
- another response

4. The recommendation may also contain measures in favor of the defendant, such as:

a. for personnel: voluntary transfer to another position

b. for students:

- assignment of another supervisor and/or
- placement in another working group

Article 9 Decision of the Executive Board

1. Within four weeks of receiving the report and the recommendation of the complaints committee, the Executive Board will take a decision. The decision and its substantiation will immediately be communicated to the reporter and the defendant, together with a copy of the report and the recommendation of the complaints committee and a copy of the report of the hearing. A copy of the decision will be sent to the complaints committee.

2. If the Executive Board decides to deviate from the recommendation of the complaints committee, it shall state the reasons for the deviation from the recommendation within the decision.

Article 10 Annual report of the complaints committee

The complaints committee reports annually to the Executive Board on the number of complaints handled, their nature and the recommendations given on them.

Article 11 Protection

1. Reporters, confidential counsellors and members of the complaints committee may not be disadvantaged in their positions because of the submission of their complaint or because of their position as a confidential counsellor or member of the complaints committee.

2. Termination of the employment contract of a confidential counsellor or of a member of the complaints committee requires the approval of the Executive Board.

Article 12 Facilities

The Executive Board provides the confidential counsellors and the members of the complaints committee with the facilities they need to carry out the duties assigned to them.

Thus adopted by the Executive Board on June 11, 2020.