

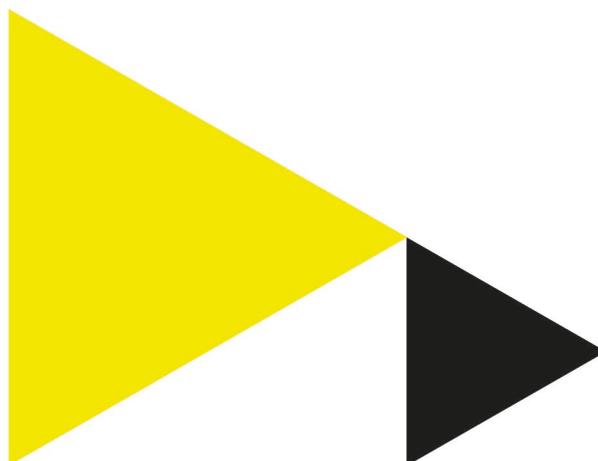
# The AUAS Regulations on Inappropriate Behaviour

Setting out what constitutes inappropriate behaviour and the roles of the confidential advisers and the Inappropriate Behaviour Complaints Committee

Legal Affairs/HR department

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## REGULATIONS ON INAPPROPRIATE BEHAVIOUR

### 1. Preamble

Amsterdam University of Applied Sciences (AUAS) is a broadly accessible school where a large diversity of students and staff members collaborate, study and work on teaching and research. Social safety and a pleasant and healthy learning and working environment in which everyone feels welcome are important prerequisites for this. AUAS attaches great importance to a working environment in which people treat each other with respect and staff members and students can work and study in a safe and healthy manner. These Regulations on Inappropriate Behaviour set out the prerequisites for this.

AUAS wants to be a place where inappropriate behaviour, such as discrimination, sexual harassment, intimidation, bullying and aggression, is not accepted. Therefore, people should be able to discuss inappropriate behaviour. The basic principle is that any situation involving inappropriate behaviour should, where possible, be resolved in the place where it has arisen. This means that staff members and students should initially raise the issue with the person in question or this person's manager. Any issue raised concerning inappropriate behaviour is examined seriously, and the line organisation is initially responsible for handling this. An open attitude, a safe environment and a fair hearing of both sides are essential in this respect. AUAS has confidence in the capability of its organisation to resolve such issues, but it also has additional facilities, which are set out in these Regulations.

The Regulations lay down the position, duties and powers of the confidential advisers and the Inappropriate Behaviour Complaints Committee. With the establishment of confidential advisers and the Inappropriate Behaviour Complaints Committee, AUAS can also receive signals that will contribute to the improvement of social safety. With this focus on attitude and conduct, the confidential advisers and the Inappropriate Behaviour Complaints Committee, along with the Staff Ombudsman and other complaints committees, are an important foundation for the socially safe environment that AUAS aims to offer everyone.

Inappropriate behaviour can lead to stress and unsafety. Given the emotional impact of inappropriate behaviour and its consequences, the possibility of initial assistance and support by a confidential adviser is essential. Accordingly, AUAS considers it of great importance that staff members and students can turn to an independent confidential adviser to ask questions and make reports about inappropriate behaviour and to informally and confidentially discuss what has happened to them or to someone else. They can share their experience with the confidential adviser and discuss their options. The confidential adviser will then help to try to find an informal solution. The means that staff members and students, if desired with support from the confidential adviser, should initially raise the inappropriate behaviour with the person in question.

In practice, however, situations may arise that cannot be resolved in this way. In that case, a staff member or student can submit a complaint regarding inappropriate behaviour to the Inappropriate Behaviour Complaints Committee. The confidential adviser can assist them in this process if desired. The availability of this formal procedure indicates the importance that AUAS attaches to combating inappropriate behaviour and the psychosocial consequences such behaviour can have. At the same time, a formal procedure offers opportunity to investigate the complaint and to meet the requirements for a fair hearing of both sides.

AUAS attaches importance to a broad accessibility of the facilities. All students and staff members who have an employment contract with AUAS can make a report to a confidential adviser regarding inappropriate behaviour. Other persons (third parties) who are not formally employed by AUAS, such as agency workers, self-employed persons, staff members of companies hired by AUAS and staff members of the University of Amsterdam, can also make a report to a confidential adviser. This is provided for by the definition of the term staff member in Article 1 of these Regulations.

In principle, complaints can only be directed against and can only be submitted by current or former staff members or students of AUAS, as there is no relationship of authority between AUAS and any person who is not a staff member or student of AUAS. However, the aforementioned third parties may likewise feel that they have experienced inappropriate behaviour within AUAS as a student or staff member. They too can submit a complaint against a student or staff member, provided that they

accept that the accused can then also submit a complaint about them. This ensures that the parties are in a position of equality in the Inappropriate Behaviour Complaints Committee procedure. However, there is a difference with regard to the possible measures that can be imposed. These measures are set out in Article 13(b), (c) and (d). In addition, AUAS strives to ensure that third parties who perform work for AUAS are likewise covered by the scope of the regulations of AUAS to the greatest possible extent. In that case, a complaint can likewise be submitted against such a person.

## 2. Other regulations related to these Regulations and other relevant information sources

AUAS Code of Conduct;  
Overview of Complaints Procedures for AUAS Staff Members;  
AUAS Integrity Code;  
AUAS Staff Ombudsman Regulations;  
AUAS Regulations Governing Reporting of (Suspected) Instances of Wrongdoing, Irregularities or Integrity Violations;  
Performance and Appraisal Regulations (with regard to the job classification change and complaints procedure);  
Students' Charter;  
House Rules;  
Teaching and Examination Regulations applying to the Student's degree programme;  
Rules of Procedures of the Inappropriate Behaviour Complaints Committee.

## 3. Terms and definitions

### Article 1 Terms and definitions

For the purpose of these Regulations, the terms below are defined as follows:

**Accused:** a Student or Staff Member<sup>1</sup> of Amsterdam University of Applied Sciences against whom a Complaint has been made, with the proviso that a Staff Member who does not have an employment contract with the Amsterdam University of Applied Sciences can only qualify as an Accused if they are also a Complainant or were and remain contractually bound by the regulations of the Amsterdam University of Applied Sciences.

**Executive Board:** Amsterdam University of Applied Sciences' Executive Board, which is an institutional administration (*instellingsbestuur*) as referred to in Section 1.1 under j and Section 10.8 of the Dutch Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, hereinafter 'WHW').

**Amsterdam University of Applied Sciences:** the university of applied sciences maintained by the foundation Stichting Hogeschool van Amsterdam (hereinafter 'AUAS').

**Complaint:** a written complaint regarding Inappropriate Behaviour submitted to the Complaints Committee.

**Inappropriate Behaviour Complaints Committee:** the Complaints Committee as referred to in Article 9 of these Regulations, to which a Student or Staff Member can submit a complaint regarding Inappropriate Behaviour.

**Complainant:** a Student or Staff Member who has submitted a Complaint regarding Inappropriate behaviour to the Inappropriate Behaviour Complaints Committee.

**Staff Member:** a person who works for or performs work for or at AUAS in whatever capacity. For the purpose of these Regulations, all persons who work for the combined operational units (*gecombineerde uitvoerende diensten*) of AUAS and the University of Amsterdam also qualify as Staff Members.

**Reporting Party:** a Student or Staff Member who makes a Report to a Confidential Adviser regarding Inappropriate Behaviour experienced or witnessed by this Student or Staff Member.

**Report:** notification made to a Confidential Adviser regarding Inappropriate Behaviour experienced or witnessed by the Reporting Party.

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<sup>1</sup> The terms defined in Article 1 are consistently capitalised hereafter in these Regulations.

**Inappropriate Behaviour:** any form of aggression, violence, discrimination, sexual harassment, intimidation, bullying or abuse of power that affects the performance of a person's work or the unhindered progress of a person's studies.

- aggression and violence: verbal, psychological or physical harassment, threats or attacks;
- discrimination: insulting persons in any way on the basis of their race, ethnicity, religion, sex, beliefs, handicap and/or sexual orientation, or discriminating against persons on the basis of any of these factors;
- sexual harassment: any form of verbal, non-verbal or physical behaviour with a sexual connotation aimed at or resulting in the denigration of a person's dignity;
- intimidation: attempting to influence a person's behaviour by instilling fear in a person by threatening them with adverse consequences;
- bullying: persistently pestering, ridiculing, gossiping about or ignoring a person;
- abuse of power: abusing one's position or powers in a relationship of authority or trust.

**Student:** a person who is or has been enrolled at AUAS as a student as referred to in Section 7.32 of the WHW; an external student (*extraneus*) as referred to in Section 7.36 of the WHW and a course participant also qualify as a Student.

**Confidential Adviser:** a person as referred to in Articles 3 and 4 of these Regulations.

## 4. General provisions

### Article 2 Duties aimed at social safety

- a. The Executive Board ensures a policy and culture aimed the preventing Inappropriate Behaviour.
- b. The Executive Board ensures that the Confidential Advisers are accessible and available and are provided with the necessary facilities and training opportunities.
- c. The bodies and staff members of AUAS strive to the best of their abilities to ensure that a socially safe environment is maintained and Inappropriate Behaviour is prevented at AUAS.

## **5. Confidential Advisers**

### **Article 3 Confidential Adviser**

- a. AUAS has Confidential Advisers for Staff Members and Confidential Advisers for Students.
- b. A Staff Member or Student cannot be assisted by a Confidential Adviser who works in the same organisational unit or who is or may in some other way be involved with the Staff Member's work environment or the Student's degree programme.
- c. Persons involved with the same situation whose interests differ from each other cannot be assisted by the same Confidential Adviser.

### **Article 4 Duties and powers**

- a. The duties of a Confidential Adviser are:
  - providing initial assistance and support to Students and Staff Members who feel they have experienced or currently experience Inappropriate Behaviour, either personally or indirectly;
  - providing guidance and information to Students, Staff Members and managers in the organisation with respect to social safety;
  - advising the organisation with respect to social safety;maintaining contacts with the officials and bodies of AUAS that are in a position to identify Inappropriate Behaviour.
- b. A Confidential Adviser can consult with one or more other Confidential Advisers of AUAS regarding how to handle a Report.
- c. When requested, Students, Staff Members and organisational units of AUAS will to the best of their abilities assist the Confidential Adviser with exercising the duties and powers arising from these Regulations.

### **Article 5 Confidentiality**

- a. Any information obtained by the Confidential Adviser is confidential, unless statutory obligations apply that override this duty of confidentiality. The Confidential Adviser will inform the Reporting Party of this proviso.
- b. The duty of confidentiality also applies to Staff Members who work for the Confidential Adviser.
- c. The Confidential Adviser will not contact third parties about an individual case without the consent of the Reporting Party, unless this is absolutely necessary in the Confidential Adviser's opinion. In that case, the Confidential Adviser will discuss this with the Executive Board and will justify this course of action in their report.
- d. When breaking confidentiality, the Confidential Adviser will comply with the Protocol for Confidential Advisers on Breaking Secrecy/Confidentiality (*Protocol doorbreken geheimhouding/vertrouwelijkheid Vertrouwenspersoon*) of the National Association of Confidential Advisers (*Landelijke Vereniging Vertrouwenspersonen*).

### **Article 6 Making a Report**

- a. A Staff Member or Student who feels that they have been confronted with or have learned of Inappropriate Behaviour can make a Report of this to a Confidential Adviser.
- b. A Report should be made as soon as possible and in any case no later than one year after the Reporting Party's enrolment, employment or relationship with AUAS has terminated.
- c. A Report can be made verbally or in writing.
- d. The Confidential Adviser will draw up a report of the Report, which will include at least the substance, time and place of the incident, the name of the Reporting Party and the name of the person regarding whom the Report has been made.
- e. Anonymous Reports will not be accepted.
- f. The Reporting Party may at any time request to the Confidential Adviser in writing to cease to handle the Report.

## **Article 7 Accountability and reporting**

- a. The Confidential Adviser will draw up a report on the activities and conversations conducted in relation to a Report.
- b. Such reports are only accessible to the Confidential Adviser handling the Report and the Inappropriate Behaviour Complaints Committee, except where mandatory statutory provisions dictate otherwise.
- c. Each year, the Confidential Advisers (both those for Staff Members and those for Students) issue an annual report to the Executive Board regarding the number of Reports made to them and the nature thereof.
- d. The Executive Board ensures that Staff Members and Students are informed of the measures that have been taken to prevent Inappropriate Behaviour within AUAS.

## **Article 8 Archiving and retention periods**

- a. Once a Report has been handled, the associated report drawn up by the Confidential Adviser will be archived in the Confidential Adviser's records and retained there for a period of five years from the date on which the annual report as referred to in Article 7(c) was issued.
- b. Once the Confidential Adviser's report been archived in accordance with Article 8(a), the Confidential Adviser will destroy all other documents relating to the Report.
- c. When a Confidential Adviser will cease to perform their duties as a Confidential Adviser, they will transfer their archive to another Confidential Adviser or a person to be designated as a Confidential Adviser by the Executive Board.

## **6. Inappropriate Behaviour Complaints Committee**

### **Article 9 Inappropriate Behaviour Complaints Committee**

- a. AUAS has an Inappropriate Behaviour Complaints Committee (hereinafter 'Complaints Committee')
- b. The Complaints Committee adopts Rules of Procedure setting out the rules for the procedure before the Complaints Committee. These Rules of Procedure are subject to the approval of the Executive Board.

### **Article 10 Composition, appointment and protection of the Complaints Committee**

- a. The Complaints Committee consists of a chair, two members and three deputy members. The chair is also a member of the Complaints Committee. One member is nominated by the Executive Board, one member is nominated by the Central Representative Advisory Council (CMR) and one member is nominated jointly by the Executive Board and the CMR. The same applies to the deputy members. The Executive Board strives for diversity in the composition of the Complaints Committee.
- b. The chair, members and deputy members are appointed by the Executive Board for a term of two years and are afterwards immediately eligible for reappointment. The Executive Board designates the chair and deputy chair from the members and deputy members.
- c. The composition of the Complaints Committee is such that it has sufficient expertise in the area of psychosocial and legal aspects of Inappropriate Behaviour as defined in Article 1 of these Regulations.
- d. The following persons cannot be a member or deputy member of the Complaints Committee: staff of the Education Inspectorate, members of the Supervisory Board or Executive Board of AUAS, its deans, directors and Confidential Advisers.
- e. The chair and deputy chair of the Complaints Committee do not have an employment contract with AUAS.
- f. The Executive Board will ensure that members, deputy members and former members will not be disadvantaged in any way in relation to their position within AUAS as a result of their membership of the Complaints Committee.
- g. If, in the Complaints Committee's opinion, a current or former member of the Complaints Committee is being disadvantaged or is likely to be disadvantaged in the near future, the Complaints Committee or the relevant current or former member will as soon as possible give notice to the Executive Board of AUAS of how this member is being disadvantaged or likely to be disadvantaged in the near future and request that this be reversed or prevented as applicable.
- h. If the fact that the member is being disadvantaged or likely to be disadvantaged in the near future is caused by the Executive Board, the notice and the relevant request as referred to in Article 10(g) are to be submitted to the Supervisory Board of AUAS.
- i. The provisions in Article 10(f), (g) and (h) apply in full to the designated permanent secretary of the Complaints Committee.

### **Article 11 Expiry and termination of membership of the Complaints Committee**

- a. Membership of the Complaints Committee ends:
  - upon expiry of the appointed term; or
  - when a membership is terminated before expiry of the appointed term.
- b. The membership of a member or deputy member of the Complaints Committee expires with effect from the day after the end date of their appointed term.
- c. When membership of the Complaints Committee is terminated before expiry of the appointed term, it ends with effect from the day on which this termination is granted.
- d. The Executive Board will only grant a member or deputy member of the Complaints Committee termination of their membership before expiry of their appointed term:
  - at the request of the relevant member or deputy member; or
  - on account of the fact that the relevant member or deputy member no longer serves in the capacity based on which they were appointed.
- e. The Executive Board will only grant termination of a membership before expiry of the appointed term after having consulted with the chair or deputy chair of the Complaints Committee as applicable concerning the progress of the work of the Complaints Committee.
- f. When the membership of a member of the Complaints Committee is terminated before expiry of their appointed term, a replacement member will be appointed immediately for the remainder of the appointed term.

- g. A deputy member will be appointed as soon as possible, subject to the provisions in Article 10.
- h. In the case of a request for termination or the necessity of the termination of a membership on account of the fact that the relevant member of the Complaints Committee no longer serves in the capacity based on which they were appointed, the Executive Board will as soon as possible give notice of this to the CMR. Along with this notice, the Executive Board will submit a request to the CMR to make a nomination for the replacement of the relevant member in accordance with the provisions in Article 10.
- j. If the request for or necessity of the termination of a membership concerns the chair of the Complaints Committee, the Executive Board will first hear the chair before appointing a replacement; if it concerns the deputy chair, the Executive Board will likewise first hear the deputy chair before appointing a replacement. Article 10 applies mutatis mutandis.

#### **Article 12 Expense and time allowance scheme**

- a. The chair and the deputy chair receive an expense allowance calculated on the basis of the hourly rate determined by the Executive Board for their time spent in attending meetings, holding hearings and drawing up rulings and recommendations on behalf of the Complaints Committee, as well as their time spent on any other work for the Complaints Committee.
- b. Members and deputy members who have an employment contract with AUAS are allocated time to attend meetings and hearings of the Complaints Committee.

#### **Article 13 Duties and powers**

- a. The Complaints Committee assesses on the basis of the Complaint submitted to it whether or not this Complaint is wholly or partly justified and – if it assesses that the Complaint is wholly or partly justified – in its ruling includes recommendations to the Executive Board regarding any measures to be taken as referred to in Article 13(b), (c) and (d).
- b. A measure to be recommended by the Complaints Committee can only concern the following with regard to a Student:
- a warning;
  - denying access to the buildings and grounds of AUAS for a period of no more than one year;
  - terminating enrolment for a period of no more than one year;
  - irrevocably terminating enrolment.
- c. A measure to be recommended by the Complaints Committee can only concern the following with regard to an Accused with an employment contract with AUAS:
- a warning;
  - a written reprimand;
  - a suspension;
  - dismissal.
- d. c. A measure to be recommended by the Complaints Committee can only concern the following with regard to an Accused who does not have an employment contract with AUAS and is not a Student at AUAS:
- terminating the relationship between the Accused and AUAS;
  - if the Accused has been engaged by a company to perform work at AUAS, informing the relevant company and requesting the company to warn or have a conversation with the Accused or not to deploy the Accused at any AUAS locations;
  - the Executive Board or another party having a stern conversation with the Accused.
- d. Regardless of the Complaints Committee's recommendations, the Executive Board may decide to take general or specific measures as it sees fit.

#### **Article 14 Confidentiality**

Any information obtained by the Complaints Committee is confidential.

## **Article 15 Submitting a Complaint**

- a. A Student or Staff Member who is confronted with Inappropriate Behaviour in their work/study environment may submit a written Complaint to the Complaints Committee at the earliest possible opportunity but no later than one year after termination of their enrolment, employment or relationship with AUAS. If a Staff Member does not have an employment contract with AUS and is also not contractually bound by the regulations of AUAS, submitting a Complaint will mean that the Accused may likewise submit a Complaints against this Staff Member that will be accepted by the Complaints Committee.
- b. The Complaint is to be submitted by email to the secretary of the Complaints Committee: Klachtencommissieongewenstgedrag-bs@hva.nl.
- c. A Complaint must at least include the town or city where the Complainant resides, the time, nature and place of the incident and the identity of the Accused. The Complaints Committee will not disclose the Complainant's address details to the Accused, nor will it disclose the Accused's address details to the Complainant.
- d. Anonymous Complaints will not be accepted.
- e. The Complainant may at any time request the Complaints Committee by email or verbally at the hearing to cease to handle the Complaint. This request will be granted, unless the Accused – when asked to do so – makes a plausible case that the Accused has a serious interest in the Complaints Committee assessing the Complaint.

## **Article 16 Decision of the Executive Board**

- a. The Complaints Committee will send its ruling, consisting of its assessment as to whether the Complaint is justified and any recommendations regarding measures to be taken, to the Executive Board.
- b. The Executive Board will adopt the Complaints Committee's assessment as to whether the Complaint is justified. The Executive Board will also adopt any recommendations made by the Complaints Committee regarding measures to be taken, unless there are serious reasons for the Executive Board not to do so. If the Executive Board does not adopt such recommendations, it must explicitly explain the reasons for this in writing and inform the Complainant, the Accused and the Complaints Committee about this.
- c. The Executive Board will reach its decision within three weeks of having received the Complaints Committee's ruling.
- d. The Executive Board's decision will include an explanation of the reasons for the decision and will immediately be communicated in writing to the Complainant, the Accused and the Complaints Committee.
- e. The Executive Board's decision will be included in the relevant files kept by AUAS with regard to the parties involved.

## **Article 17 Appeals**

No appeal is possible against the Complaints Committee's recommendations, with the exception of a person's right to submit a matter to the competent civil court.

## **Article 18 Accountability and reporting**

- a. Each year, the secretary of the Complaints Committee draws up an annual report on its findings and activities, even if no Complaints were submitted. This annual report is presented to the Executive Board.
- b. The secretary of the Complaints Committee will ensure that this annual report is not detrimental to the confidential nature of its work.

## **Article 19 Archiving and retention periods**

- a. The Complaints Committee's rulings are archived by the secretary.
- b. Each of the parties involved has the right to view documents and receive copies of documents from the archive, provided that such documents concern the relevant party.

- c. The secretary manages all cases pending before the Complaints Committee. Without prejudice to Article 19(b), the archive may only be viewed by the secretary and the Complaints Committee, except where mandatory statutory provisions dictate otherwise.
- d. After a Complaint has been handled, the relevant file will be retained for a period of five years from the date on which the Complaints Committee's ruling was sent to the Executive Board in accordance with Article 16(a), after which the secretary will destroy all documentation regarding the Complaint.

## **7. Concluding provisions**

### **Article 20 Confidentiality**

- a. Without prejudice to the provisions of these Regulations, any person who by virtue of their duties is involved with proceedings regarding a Report or Complaint is subject to a duty of confidentiality.
- b. Without prejudice to the provisions of these Regulations, any person who by virtue of their duties has or is granted access to documents regarding a Report or Complaint must consider these documents strictly confidential and must treat these documents as such.

### **Article 21 Effective date and official title**

These Regulations, which took effect on 8 March 2023, may be cited as the Regulations on Inappropriate Behaviour of Amsterdam University of Applied Sciences (*Regeling Ongewenst gedrag Hogeschool van Amsterdam*) and replace the previous Regulations on Inappropriate Behaviour of Amsterdam University of Applied Sciences of 22 October 2019.

Adopted by the Executive Board on 14 March 2023.