



# Guidelines against the abuse of power, discrimination, (sexual) harassment and sexual violence at the Nuremberg University of Music

(Pursuant to the resolution passed by the Senate on 01.07.2024 and  
by the Executive Board on 09.07.2024)

## **Preamble**

The Nuremberg University of Music integrates various areas of work and levels of responsibility within the areas of studying, teaching, research and administration. At all these levels, our guiding principle is to ensure equal opportunities, trust and respect among all members and guests of the University. The Nuremberg University of Music strictly rejects all forms of discrimination and abuse of power and takes active steps against them.

The Nuremberg University of Music recognises abuse of power and discrimination as a challenge facing society as a whole. At the same time, it is aware that places providing artistic vocational education are particularly susceptible to all forms of abuse of power and discrimination due to the high degree of individual familiarity, emotionally charged situations, physical proximity and the special structures and positions of dependency found in this context. The University does not tolerate abuse of power in any form. All members of the University are therefore called upon to contribute towards cultivating an appreciative and non-violent working and studying environment that offers space for artistic and personal development.

## **SECTION 1: PRINCIPLES AND DEFINITIONS**

### **1. Scope**

(1) The guidelines apply to all members, affiliates and guests of the Nuremberg University of Music (HfM). They therefore explicitly also apply to those people who are not bound to the University by employment or service contracts and are therefore not subject to the General Equal Treatment Act (*Allgemeines Gleichbehandlungsgesetz, AGG*).

(2) These guidelines apply to the conduct of the stated people within the context of the University. Discriminatory behaviour outside of the University context is taken into account if the contact was established via the University context and was based, for example, on positions of dependency relating to education.

### **2. Basic principles**

(1) Within its area of responsibility, the Executive Board at HfM advocates for the personal rights and the individual personal boundaries of its members, affiliates and guests to be safeguarded and respected. These guidelines are an instrument that can be used to determine, file a complaint about and impose sanctions for any instances of misconduct in the above-mentioned areas, as well as an important means of preventing such misconduct by providing information, raising awareness and encouraging the empowerment of those involved.

(2) All members and affiliates of HfM are obliged to contribute to establishing a climate of respect at the place of study and work through their own conduct and actions. People who are responsible for training, awarding qualifications and managerial tasks in teaching, research, art, vocational training and administration have a particular duty of care. They ensure that discriminatory, sexually harassing behaviour, violence and the abuse of power do not occur or are prevented.

(3) Any misconduct determined on the basis of these guidelines will be treated in accordance with valid disciplinary or employment law and, if applicable, with provisions under criminal law.

### **3. Definitions**

#### **(1) Violating boundaries**

Boundaries are violated when someone fails to respect the personal mental or physical boundaries of another person. This may be an expression of a lack of respect vis-à-vis the other person. Boundaries may be violated deliberately or with intention, or it may happen unintentionally, inadvertently or thoughtlessly. Whether an incident is perceived as boundaries having been violated depends on the subjective experience of those involved, the context in which it occurred and the relationship of the people involved.

## (2) Abuse of power

In German law, there is no legal definition of abuse of power. Conduct that leads to the detriment of others within the context of an abuse of power at the workplace should be assessed against the provisions of the General Equal Treatment Act (*AGG*) and criminal law. Not every type of abuse of power is classified as a criminal action or a violation of the *AGG*, but this often is the case, as misconduct regularly comes under the heading of discrimination within the meaning of the *AGG*.

In principle, abuse of power occurs whenever a hierarchical, structural or situational position of power is exploited in order to assert one's own interests or goals or to damage, harass or discriminate against the people over whom the power is exercised.<sup>1</sup>

Examples for an abuse of power may include (list not exhaustive):

- Arbitrary unequal treatment (preferential treatment or discrimination) of members of staff or students
- Exploitation of labour contrary to applicable service, labour, or occupational health and safety regulations or contrary to good (scientific and/or artistic) practice
- Forcing acts that undermine or violate the dignity of the individual
- Open threats or subtle insinuations of a coercive nature
- Assigning demeaning tasks
- Preventing someone from speaking their mind for no reason
- Intentionally retaining important information (related to work)
- Arranging teaching sessions at the weekend without students' consent
- Exerting pressure on students to attend non-compulsory events
- Imposing a ban on someone attending a class/event without a valid reason

## (3) Discrimination

Discrimination is every form of treating individual people or groups less favourably or differently due to various obvious or not necessarily immediately obvious characteristics. Discrimination can go beyond the protected characteristics stated in the *AGG*, and may, for example, also be based on a person's social background or appearance. The term multiple discrimination is used to refer to instances in which several discriminatory factors apply to one person, and intersectional discrimination when several concurrent discrimination factors can no longer be separated from an external perspective.

## (4) Direct discrimination

In German, the *AGG* does not use the term 'Diskriminierung' to refer to discrimination, but rather the slightly broader term 'Benachteiligung', as not every instance of different treatment that leads to a disadvantage is necessarily discriminatory. 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 the basis of their gender, ethnic origin, age, religion or belief, a disability, their sexual orientation and gender identity ('protected characteristics')<sup>2</sup>. Direct discrimination on the grounds of gender is also taken to occur in cases where a woman experiences unfavourable treatment due to being pregnant or on maternity leave.

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<sup>1</sup>'Abuse of power can arise in a relationship where one party is dependent on another to a greater or lesser degree if the relationship is shaped in such a way that it provides the person with the main position of authority with tangible or intangible benefits, whether deliberately or not.' German Musicological Society <https://www.musikforschung.de/fachgruppen/arbeitsgruppen/machtmissbrauchspraevention/>; accessed [in German] 13 February 2024.

<sup>2</sup> See Section 1 *AGG*. The *AGG* does not differentiate between sexual orientation and gender identity.

#### (5) Indirect discrimination

The *AGG* also provides protection against indirect discrimination. Rather than obviously arising as a result of one of the characteristics stated in Section 1 *AGG*, indirect discrimination results from seemingly neutral criteria. In the first instance, these apply equally to all, but the effect they have is more unfavourable to certain groups than to others. Indirect discrimination is not taken to occur if the applicable regulations, criteria or procedures are objectively justified by a legitimate aim and the means of achieving that aim are reasonable and necessary.

#### (5) Harassment

Harassment is deemed to be discrimination when unwanted conduct in connection with any of the protected characteristics 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.

#### (6) Sexual harassment

Sexual harassment is a specific form of harassment that the *AGG* also protects against. Sexual harassment is any unwanted sexually motivated conduct that has the purpose or effect of violating the dignity of the person concerned, in particular when it creates an intimidating, hostile, degrading, humiliating, or offensive environment.

#### (7) Sexual violence

Sexual violence is every form of violence expressed by sexual attacks or the threat thereof. Sexual harassment is therefore a form of sexual violence. It is marked by coercion, lack of consent or the expressly stated or discernible 'no' of one of the involved parties. The term 'sexual' violence indicates that the sexual acts or utterances are meant as the means to an end, i.e. exercising power and using force. Sexual violence therefore often occurs in positions of dependency. Severe forms of sexual violence (sexual assault; sexual coercion; rape) constitute a criminal offence (see Section 177 of the German Criminal Code, *StGB*).

#### **4. Forms of expression of discrimination, (sexual) harassment and sexual violence**

Discrimination, sexual harassment and sexual violence can be expressed in verbal and non-verbal form or by physical attacks (non-exhaustive list):

- Displaying, distributing or showing images with sexist, racist or other discriminatory (e.g. ableist) content (e.g. posters, screensavers, calendars, software)
- Defacing University premises with sexist, racist or otherwise discriminatory (e.g. ableist) graffiti
- Copying, applying and/or using pornographic, racist or otherwise discriminatory (e.g. ableist) content on work computers
- Addressing people in a sexist or otherwise discriminatory manner (including the use of 'pet names') and offensive remarks
- Making sexually suggestive, racist or otherwise discriminatory comments, remarks, jokes, discriminatory comments about other people, their appearance or body
- Making unwanted verbal sexual advances
- Making unwanted and unnecessary physical contact
- Inciting someone to conduct sexual acts
- Threatening violence, persecution, coercion
- Stalking
- Physical attacks including rape

## SECTION 2: PREVENTION

University teaching in the arts is characterised by the close links between developing the students' artistic personality at the same time as training their technical skills. The high percentage of individual lessons and the inevitably high degree of emotional involvement on the part of both teaching staff and students often lead to close personal ties within and related to their professional relationship. All parties must reflect on the ideal degree of proximity and distance, giving sufficient space to the personal components of musical education while also ensuring that the dependency relationship is not exploited by one of the parties. Teaching staff have a particular duty of care in this respect.

### 1. Duties and responsibility

(1) The Nuremberg University of Music has the obligation to protect its members, staff and guests from discrimination, (sexual) harassment and sexual violence.

(2) The Nuremberg University of Music undertakes to take action against any person who is proven to have violated these guidelines, the AGG or other relevant laws.

(3) The Nuremberg University of Music uses all options at its disposal to ensure that members and staff who bring any critical issues to light will not be discriminated against in any way.

(4) University members responsible for staff and/or those with managerial, training and qualification responsibilities in the areas of teaching, research, administration and self-administration of public entities (*Selbstverwaltung*) are obliged:

- a. to contribute through their conduct and suitable preventative measures towards encouraging a culture based on treating each other with appreciation and without discrimination, where the integrity of all University members, staff and guests is respected,
- b. to ensure that dependency relations while studying, at the training site and at the workplace are not exploited in any way,
- c. to take appropriate action to follow up on any complaints about or claims of discrimination, sexual harassment and sexual violence, to inform those affected which counselling and advice services are available to them and to take an active part to ensure that such incidents are not repeated. In the case of any uncertainty, they should inform the relevant offices at the University to instigate an investigation into the claims.

### 2. Prevention measures

(1) The Nuremberg University of Music develops preventative measures. The officers for equal opportunities for women in science and the arts, Equal Opportunities Officers, the officer for the needs of students with disabilities and chronic illness and the Committee for equal opportunities and inclusion (K2) all play a crucial role. These measures include:

- Creating a low-threshold advisory network of internal and independent external points of contact
- Increasing the degree of professionalism of internal advisory offices
- Informing all University members of the advisory services available and their right to lodge a complaint

- Creating information material aimed at raising awareness among the University community and in particular among managers (traffic light in communication, guidelines for preliminary discussions, campaign NO to/YES to)
- Further training programme available to all members of the University on the topics of the General Equal Treatment Act (AGG), proximity and distance, treating others with respect, empowerment, and complaints procedures; these courses are compulsory for teaching staff on a permanent contract and administrative staff, and are recommended for Lehrbeauftragte (adjunct lecturers) and students
- Taking the topic of the abuse of power into consideration in evaluations conducted on a regular basis
- Participating in inter-university studies on the topic of the abuse of power
- Raising awareness of the issue in appointment and selection procedures
- Providing information on the possibility of switching teaching staff

(2) These guidelines will be publicised appropriately within the Nuremberg University of Music. The text will be published online in a manner that is easy to find. When entering into office, University employees will sign the guidelines as a personal declaration.

### **SECTION 3: ADVICE AND COMPLAINTS**

#### **1. Advice**

(1) At the Nuremberg University of Music there are various points of contact and advice centres on hand to assist in the event of discrimination, (sexual) harassment and sexual violence. The following initial points of contact are available:

- Dignity and respect advisers (Vertrauenspersonen)
- Officers for equal opportunities for women in science and the arts (for female students and teaching staff)
- Equal opportunities officers (for employees in administration)
- The contact for anti-discrimination (for all members of the University)
- The contact for the prevention of sexual harassment and sexual violence (for all members of the University)
- The officer for students with a disability or chronic illness
- Disability liaison officer (for staff, responsible for several universities)
- Staff council (for employees in administration and academic-artistic staff at the University)
- The International Office
- Anyone in a managerial position

(2) The advice centres support victims with confidential advice on asserting their interests and provide information on options for action and protection, for instance also on the decision as to whether a formal complaint should be submitted to the complaints office. All information, personal data and content covered during conversations is kept confidential. The named advice centres only take specific action in any individual instance if the victim grants their consent.

Possible steps that can be taken with the agreement of the victim:



- Accompanying them to further informal meetings
- Recommending a professional mediation with a third, neutral party
- Establishing contact to an external advice centre
- Initiating a formal complaints procedure

(3) There is the possibility to report incidents anonymously. These are documented, processed and submitted to the Executive Board if applicable. Anonymous reports cannot lead to a formal complaint.

## **2. Complaints procedure**

### **(1) Right to file complaints**

Anyone who feels disadvantaged, discriminated against or sexually harassed within the scope of these guidelines or who has experienced violence has the right to lodge a complaint. They may not be disadvantaged or discriminated against for exercising this right to lodge a complaint.

### **(2) Responsibility**

The Executive Board is responsible for the complaints procedure. They establish a complaints office responsible for receiving complaints.

### **(3) Form and content of complaints**

The complaint must be made to the complaints office either verbally or in writing (informally). It must be stated which people and offices have already been approached with respect to the same matter and any measures that they have already initiated.

### **(4) Inspection by the complaints office**

The complaints procedure is strictly confidential. The complaints office records the described facts of the matter. First of all, they hear the person filing the complaint and then take the necessary steps for clarifying the issue. They invite the person the complaint is directed against for a meeting and inform them of their rights and obligations. The complaints office can also check evidence and question other people who may help clarify the issue.

### **(5) Documentation**

All meetings and the facts of the matter are documented in writing by the complaints office. Everyone involved is required to sign the minutes of all meetings.

### **(6) Involvement of Executive Board**

If the complaints procedure indicates that there is due cause to suspect that the person against whom the complaint is directed is indeed guilty of discriminatory conduct, sexual harassment or violence, the complaints office will inform the Executive Board of the result. The Executive Board may instigate further investigations of their own. If a crime has been committed, the President will bring criminal charges.

### **(7) Rights of those involved**

Both the person filing the complaint and the person against whom the complaint is directed have the right to invite a representative to attend the meetings with them. Other people who may be able to help clarify the issue are not obliged to make a statement vis-à-vis the complaints office. As a rule, the

accused is assumed innocent. In the case that the accusations are not confirmed, the wrongly accused person must not be disadvantaged in any way. All those involved must be informed as to their right

#### (8) Completion of complaint procedure

The complaints office informs those involved of the result of the procedure. The right to take further legal action remains unaffected.

### 3. Sanctions

(1) The Executive Board takes suitable measures and imposes suitable sanctions on the basis of their examination of the facts of the case. The complaints office, the person filing the complaint and the person against whom the complaint is directed are informed of all decisions and measures taken in accordance with the applicable data protection provisions.

(2) The nature and extent to which action is taken against violations of these guidelines depends on the severity of the misconduct and the position of the accused under public service, employment and university law.

(3) Depending on the case in hand, simple measures may be:

- A personal meeting, if requested in the presence of a third party, between the party filing the complaint or a trusted person and the person against whom the complaint is directed
- A personal meeting, if requested in the presence of a third party, between the manager and the person against whom the complaint is directed with reference to the prohibition of discrimination, (sexual) harassment and sexual violence
- Initiating a mediation procedure
- Change of instructor, relocation or transfer (preferably of the person against whom the complaint is directed) to another place of work or another class
- Obligation to participate in courses, further training programmes, courses aimed at raising awareness.

(4) The following formal measures may be considered for employees of the Nuremberg University of Music:

- A formal interview
- Verbal or written warning
- Disciplinary warning letter
- Dismissal
- Disciplinary action
- Ban from using University facilities
- A complete ban from the University
- Criminal charges filed by the Executive Board

(5) The following is a non-exhaustive list of measures that may be considered against students and any of the parties listed in 1.1 above who are not employed by the Nuremberg University of Music.

- Verbal or written warning
- Exclusion from classes
- Ban from using University facilities
- A complete ban from the University
- De-registration
- Criminal charges filed by the Executive Board

#### **SECTION 4: ENTRY INTO FORCE**

These guidelines will enter into force on 09.07.2024.

Nuremberg, 09.07.2024

Professor Rainer Kotzian, President