



**Regulations concerning
Undesirable Conduct**
*Amsterdam University of Applied
Sciences/Hogeschool van Amsterdam*

REGULATIONS CONCERNING UNDESIRABLE CONDUCT

Section 1: Definitions

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

1. *report: a report of undesirable conduct, as defined in Section 6, submitted to a Confidential Adviser.*
2. *aggression and violence: incidents during which a student or staff member is subjected to emotional or physical harassment, threats or attacks, under circumstances that are directly related to the study programme or work-related activities, including bullying;*
3. *accused: A Hogeschool van Amsterdam student or staff member against whom the report or complaint regarding undesirable conduct is directed;*
4. *management: the executive official(s) of an institute, a department directorate or the director of the Hogeschool van Amsterdam;*
5. *discrimination: making statements about, carrying out actions against or taking decisions regarding specific individuals that are insulting to these individuals in connection with their ethnicity, national origin, religion, gender, beliefs, handicap and/or sexual orientation, or discriminating based on any of these factors.*
6. *complaint: a written complaint regarding undesirable conduct, submitted to the Complaints Committee;*
7. *Complaints Committee: The Undesirable Conduct Complaints Committee, as described in Section 10 of these regulations;*
8. *complainant: a Hogeschool van Amsterdam student or staff member who reports undesirable conduct to a Confidential Adviser, or submits a complaint regarding undesirable conduct to the Complaints Committee;*
9. *staff member: an individual that has or had an employment contract with Hogeschool van Amsterdam, or any individual that performs or has performed work on behalf of the Hogeschool van Amsterdam without a contract of employment;*
10. *notification: the notification of a Confidential Adviser regarding undesirable conduct experienced or witnessed by the reporting party;*
11. *undesirable conduct: any form of sexual harassment, aggression, violence, bullying or discrimination that affects the performance of work or the unhindered completion of a study programme;*
12. *bullying: repeatedly tormenting, mocking and/or maliciously teasing an individual;*
13. *(sexual) harassment: unwelcome (sexual) advances, requests for (sexual) favours or other verbal, non-verbal or physical behaviour towards a staff member or student that also involves one of the following:*
 - a. *acquiescence to such behaviour is either explicitly or implicitly applied as a precondition for the individual's right to perform work or study activities;*
 - b. *acquiescence to or rejection of such behaviour by an individual is applied as a basis for decisions that affect the individual's work or study activities;*
 - c. *the behaviour is detrimental to an individual's work or study performance and/or results in an unpleasant work or study environment.*
14. *student: an individual enrolled at Hogeschool van Amsterdam for the purpose of pursuing a study programme and/or taking tests or exams, or an individual who has previously completed a study programme at Hogeschool van Amsterdam. External candidates and course participants, as described in the Hogeschool van Amsterdam Student Charter, are also considered students;*
15. *Confidential Adviser: an individual as described in Section 3 of these regulations;*

Section 2 Management responsibilities

1. ***The management is responsible for preventing undesirable conduct.***
2. ***The management must ensure that the Confidential Adviser is accessible and available, and provide the necessary facilities and training opportunities.***
3. ***The management will also ensure that the Confidential Adviser's availability is adequately communicated.***

Section 3 Confidential Adviser

The Executive Board will appoint and facilitate a Confidential Adviser for staff members and a Confidential Adviser for students at each institute. The Executive Board will also appoint a Confidential Adviser for staff members at every department headed by a directorate.

Section 4 Confidential Adviser responsibilities

1. ***The Confidential Adviser is responsible for:***
 - a. ***coordinating information meetings on the issue of undesirable conduct and providing information on the subject during courses.***
 - b. ***meeting with and providing supervision to any individual who reports - either during or outside of consultation hours - having experienced or witnessed any form of undesirable conduct;***
 - c. ***launching an investigation into the occurrence of undesirable conduct at Hogeschool van Amsterdam in response to a notification or report or on the basis of his/her own observations;***
 - d. ***assisting and advising any complainants that seek his/her help;***
 - e. ***striving to resolve the relevant problems;***
 - f. ***providing support to the complainant at his/her request and supervising him/her in the process of submitting a complaint to the Complaints Committee;***
 - g. ***respecting the confidential relationship with the complainant and refraining from undertaking any steps without his/her prior permission;***
 - h. ***treating all information and personal details regarding the accused with the greatest possible level of confidentiality;***
 - i. ***referring the complainant to a counsellor or other care provider within or outside of Hogeschool van Amsterdam where necessary;***
 - j. ***identifying circumstances that could result in or have resulted in undesirable conduct;***
 - k. ***formulating recommendations for or contributing to Hogeschool van Amsterdam bodies.***
2. ***In order to effectively perform his/her tasks, the Confidential Adviser will maintain contacts with Hogeschool van Amsterdam officials and bodies that are in a position to identify undesirable conduct.***
3. ***The Confidential Adviser may consult one or more other Hogeschool van Amsterdam Confidential Advisers regarding the handling of a report or complaint. The provisions set out in Paragraph 1 under g and h apply.***

Section 5 Cooperation

1. ***The Hogeschool van Amsterdam bodies and staff members will help the Confidential Adviser carry out his/her duties arising from these regulations to the best of their ability.***
2. ***The Hogeschool van Amsterdam bodies and staff members will strive to prevent undesirable conduct to the best of their ability.***

Section 6 Filing a report

1. *A Hogeschool van Amsterdam staff member or student who experiences or witnesses undesirable conduct while working or studying may report the incident to a Confidential Adviser at the earliest possible opportunity, but no later than one year after the termination of his/her enrolment or employment.*
2. *Incidents may be reported orally or in writing. Each time an incident is reported, the Confidential Adviser will provide the complainant with a protocol for signing. At a minimum, this protocol must specify the nature, time and place of the incident, the name of the complainant and the name of the accused. If the complainant does not sign the protocol, the report cannot be processed.*
3. *Anonymous reports will not be accepted.*
4. *The complainant may send the Confidential Advisor a written request to withdraw the report at any given time.*

Section 7 Accountability and reporting

1. *As regards the performance of his/her duties, the Confidential Adviser is exclusively accountable to the Executive Board.*
2. *Each year, the Confidential Advisers issue a joint report to the Executive Board regarding the number and nature of the consultations and reports, and their handling of the relevant incidents.*
3. *The Executive Board will inform staff members and students of any new measures aimed at preventing undesirable conduct within Hogeschool van Amsterdam.*

Section 8 Archive

1. *The Confidential Adviser will conduct all activities and conversations relating to a report or complaint on the basis of a protocol.*
2. *The protocols are only accessible to the Confidential Advisor charged with the case and the Complaints Committee, unless other obligatory provisions apply.*
3. *Once the report or complaint has been processed, the relevant protocol will be archived and stored in the Confidential Adviser's own records, until one year after a report has been filed in accordance with Section 7, paragraph 2.*
4. *Once the information has been recorded in accordance with paragraph 3, the Confidential Adviser will destroy all other documents relating to the report or complaint.*
5. *If a Confidential Adviser resigns from his/her position, his/her archive will be transferred to another Confidential Adviser appointed by the Executive Board.*

Section 9 Protection of Confidential Advisers

A staff members' duties as Confidential Advisor may never be directly or indirectly detrimental to their career.

Section 10 The Complaints Committee

1. *The Executive Board appoints the Complaints Committee.*
2. *The Complaints Committee consists of three members and three deputy members. One of these members serves as chairperson. One member and one deputy member will be nominated by the Executive Board, one member and one deputy member will be nominated by the Representative Advisory Council, and one member and one deputy member will be jointly nominated by the Executive Board and the Representative Advisory Council.*
3. *The chairperson, members and deputy members will be appointed by the Executive Board for a two-year period, and are immediately eligible for reappointment. The*

Executive Board will select a deputy chairperson from the members and deputy members.

4. *The Complaints Committee comprises a balanced mix of male and female members and is composed to ensure adequate expertise in the area of undesirable conduct and psychosocial and legal aspects.*
5. *The chairperson and deputy chairperson may not be employed by Hogeschool van Amsterdam.*
6. *Members of the Supervisory Board, Executive Board, Representative Advisory Council, Directors, and Hogeschool van Amsterdam Confidential Advisors may not serve as members or deputy members of the Complaints Committee.*

Section 11 Support for the Complaints Committee

The Complaints Committee is supported by an official secretary appointed by the Executive Board.

Section 12 Filing a complaint

1. *Hogeschool van Amsterdam staff members or students that experience undesirable conduct in the work/study environment may file a written complaint at the earliest possible opportunity - but no later than one year after the termination of their enrolment or employment - to the Complaints Committee, attn. of the official secretary, Spui 21, Postbus 931, 1000 AX Amsterdam, stating 'confidential'.*
2. *At a minimum, a complaint must specify the name and address of the complainant, a description of the time, nature and place of the incident and the identity of the accused, if known.*
3. *Anonymous complaints will not be accepted.*
4. *If a complaint that should have been addressed to the Complaints Committee is submitted elsewhere, the recipient will be responsible for referring the complainant to the Complaints Committee.*
5. *The complainant may send the Confidential Advisor a written request to withdraw the complaint at any given time. This request will be honoured subject to approval by the accused.*

Section 13 Challenge or exemption

1. *A member of the Complaints Committee may be challenged or exempted if:*
 - a. *he or she is professionally involved in the case or is part of the organisational unit to which the complainant or accused belongs;*
 - b. *there are family relationships between the complainant or accused and a Committee member.*
 - c. *the Committee member has any personal involvement with the complainant or accused;*
 - d. *this member was previously involved in the case.*
2. *The other members of the Complaints Committee will then decide whether to allow the challenge or exemption at the earliest possible opportunity. If the Complaints Committee cannot reach a majority decision, the member will be challenged or exempted.*

Article 14 Simplified procedure: objection

1. *The chairperson of the Complaints Committee may immediately reject a complaint if he/she is of the opinion that:*
 - a. *the Committee has no jurisdiction;*
 - b. *the complaint is inadmissible;*

The chairperson is to base the above decision solely on the documents relevant to the case.

2. *If the complainant does not agree with a pronouncement as described in the first paragraph, he/she may submit an objection to the Complaints Committee within two weeks of the date upon which this pronouncement was sent. The objection is to be lodged in a written and signed notice of objection stating reasons.*
3. *The pronouncement referred to in the first paragraph is to lapse as a consequence of the objection unless the objection is declared by the Complaints Committee to be manifestly inadmissible or unfounded.*
4. *Should the Complaints Committee be of the opinion that the objection is manifestly inadmissible or unfounded, it is only to declare such as inadmissible or unfounded after the complainant has been afforded the opportunity to be heard.*

Section 15 Hearing of the involved parties

1. *The Complaints Committee will offer both complainant and accused the opportunity to discuss the complaint with the Complaints Committee.
The accused will always have the final opportunity to voice his/her views before the Complaints Committee issues a pronouncement.*
2. *The complainant and accused may have themselves replaced by an authorised representative at the session or have themselves assisted by an adviser. Complainants may also have themselves assisted by the Confidential Adviser.*
3. *Complainant and accused will not be heard in each other's presence, unless the chairperson decides otherwise.*

Section 16 Rules of procedure, witnesses, experts, working method

1. *The Complaints Committee will draw up rules of procedure and submit these to the Executive Board for approval. These rules of procedure may specify further guidelines for the Complaints Committee procedure. The rules of procedure are publicly available.*
2. *The Complaints Committee may hear witnesses and consult experts in its official capacity or at the request of the complainant and/or accused. Requests to this end must be submitted in a timely fashion.*
3. *As regards all other aspects of the procedure, the Complaints Committee will determine its own course of action.*

Section 17 Closed hearings and reporting

1. *All Complaints Committee hearings are closed.*
2. *The processing of each complaint will be recorded in a written report.*
3. *The Complaints Committee will regularly update the parties involved on its progress.*

Section 18 Conclusion and recommendations

1. *Prior to the termination of the hearing, the chair of the Complaints Committee is to announce when the decision is to be pronounced. This decision will be issued within four weeks after the end of the hearing. This term may be extended once by the Complaints Committee. The parties involved will be notified thereof in a timely manner.*
2. *The conclusion will be substantiated and may consist of:*
 - a. *a statement confirming that the committee does not have sufficient jurisdiction;*
 - b. *a statement confirming that the complaint is inadmissible;*
 - c. *a statement confirming that the complaint is unfounded;*

- d. *a statement confirming that the complaint is well-founded or partially founded.*
3. *If the conclusion comprises a pronouncement as described in paragraph 2, a, b or c, the chairperson of the Complaints Committee will exclusively communicate this conclusion to the complainant and accused.*
4. *If the Committee concludes that the complaint is well-founded or partially founded, it may issue a substantiated recommendation to the Executive Board regarding measures against the accused. The chairperson of the Complaints Committee will send the conclusion and recommendation to the Executive Board and the parties involved.*

Section 19 Sanctions

1. *The Complaints Committee may recommend the following sanctions:*
 - a. *For students:*
 1. *a warning;*
 2. *denial of access to Hogeschool van Amsterdam buildings and grounds for a period of no more than one year.*
 - b. *For staff members, one of the following disciplinary measures:*
 1. *a written reprimand;*
 2. *a suspension;*
 3. *involuntary dismissal.*
2. *Regardless of the Complaints Committee's recommendation, the Executive Board may decide to take general or specific measures as it sees fit.*
3. *The Complaints Committee may issue recommendations to the Executive Board.*

Section 20 The Executive Board ruling

1. *The Executive Board will adopt the Complaints Committee's recommendations unless there are compelling reasons not to do so. The Executive Board may only deviate from Complaints Committee recommendations after having provided clear reasons for its decision and duly informing the complainant, accused and Complaints Committee.*
2. *The Executive Board will reach its decision within three weeks of having received the conclusion and recommendation.*
3. *The Executive Board's decision will be duly substantiated and immediately communicated in writing to the complainant, accused and Complaints Committee.*
4. *The Executive Board will be included in the involved party's staff dossier and/or student dossier.*

Section 21 Reconsideration of a conclusion and/or recommendation

1. *All parties are entitled to request that the Complaints Committee reconsider a conclusion and/or recommendation on the basis of new facts and or circumstances that – if they had come to light at an earlier stage – could have resulted in a different conclusion and/or recommendation.*
2. *The option of requesting such reconsideration will lapse one year after the Complaints Committee has issued its decision.*

Section 22 Appeals

No objection or appeal is possible against the Complaints Committee's recommendation with the exception of the right each person has to appeal to a civil court.

Section 23 Archival

1. *The minutes of the hearing and reports on the handling of the complaint will be archived by the official secretary.*

2. *The parties involved are entitled to inspect and receive copies of any archived documents relating to their case.*
3. *The official secretary is responsible for managing all outstanding dossiers being processed by the Complaints Committee. Archived documents may only be viewed by the official secretary and the Complaints Committee, unless other obligatory provisions apply.*

Section 24 Confidentiality

1. *With the exception of the provisions in these regulations, all parties involved in the handling of a report or complaint are subject to confidentiality.*
2. *With the exception of the provisions in these regulations, all parties to be issued any documents relating to a report or complaint must regard these documents as strictly confidential and treat them as such.*
3. *Any individual who intentionally or unintentionally obtains a document as described in paragraph 2 to which he or she should not be privy must immediately transfer these documents to the Complaints Committee chairperson.*

Section 25 Accountability and reporting

1. *The Complaints Committee will prepare an annual report on its findings and activities, even if no complaints have been submitted. This annual report will be presented to the Executive Board.*
2. *The Complaints Committee will ensure that this annual report is not detrimental to the confidential nature of its activities.*

Section 26 Entry into force and official title

These regulations enter into force on 11 September 2006 and replace the General Section of the 2005/2006 Students' Charter of Hogeschool van Amsterdam, University of Applied Sciences. The regulations may be cited as the Hogeschool van Amsterdam Regulations concerning undesirable conduct.