

# Guidelines for equal treatment

## Introduction

The University of Tartu is a diverse organisation, it is a university with the most employees and students<sup>1</sup> in Estonia. The university's main resource is these people whose wellbeing is important for the university and to whom the university must ensure good working and learning conditions and protection from unfair and unequal treatment. Acknowledging diversity, respecting the rights of the university members and promoting equal treatment contributes to achieving the university's strategic goals, supports an encouraging learning and work environment and values employees and students.

The aim of these guidelines is to provide an overview of the topics related to equal treatment and workplace bullying, give employees and students clear instructions on how to inform about a violation of the principles of equal treatment and describe the procedure of resolving discrimination and bullying cases. These are the first guidelines concerning this topic at our university, but similar guidelines are widely used in US, western European and Scandinavian universities for a long time. These guidelines have been approved by the Rector's Office on 21 June 2016.

## 1. Equal treatment

By the **Constitution of the Republic of Estonia**, the right to equal protection of the law is a basic right. In addition to the Constitution, the two main legal acts which address equal treatment are the **Gender Equality Act** and **Equal Treatment Act**. The principle of equal treatment means that people cannot be discriminated on grounds of characteristics attributed to them.

**Gender equality** means the equal rights, obligations, opportunities and responsibility of men and women in professional life, upon acquisition of education and participation in other areas of social life. Discrimination based on sex, i.e. the unequal treatment of sexes occurs where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation. In certain cases discrimination based on sex can be identified when comparing people of the same sex.

The **Equal Treatment Act** protects people against unequal treatment on grounds of primarily nationality (ethnic origin), race, colour, religion or other beliefs, age, disability or sexual orientation. This act does not preclude the requirement of equal treatment in labour relations on grounds of any characteristic not specified above, in particular due to family-related duties, social status, representation of the interests of employees or membership in an organisation of employees, level of language proficiency or duty to serve in defence forces.

In summary, it could be said that it is illegal to discriminate against people on grounds of the following eight primary characteristics:

- sex,
- nationality (ethnic origin),
- race,
- colour,
- religion or other beliefs,
- age,
- disability,
- sexual identity.

**In order to claim that treating a person differently is discrimination, the grounds for the less favourable treatment of a person must be a specific characteristic stated in the aforementioned acts. It is not necessary to prove the discriminator's aim or will to discriminate someone in order to identify discrimination.**

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<sup>1</sup> For the purposes of these guidelines a student is also an international student, visiting student, international visiting student, external student, medical resident and continuing education learner, unless noted otherwise.

*Not all different or unequal treatment is prohibited, there are also exceptions provided in the legal acts. For example, preferences can be granted to employees who have small children, pregnant employees etc. Different treatment is also justified for learners with special needs which proceeds from the general principle that making adjustments should compensate for the affect of the special need on the learner's performance. In addition, the study materials and evaluation methods should be adjusted to suit the special needs learner if possible.*

### 1.1. Direct discrimination

**Direct discrimination occurs when a person is treated less favourably than another is in a comparable situation on grounds of their sex, nationality, race, colour, religion or other beliefs, age, disability or sexual orientation.** It is also as deemed direct discrimination based on sex if a person is treated less favourably due to pregnancy, child-birth, parenting, performance of family obligations or other circumstances related to gender.

*Example.* When recruiting a new employee, a suitable and highly qualified candidate is discarded because they have reached retirement age.

*Example.* When raising the salaries of all the employees of the unit, the superior decides not to raise salary of an employee who is often forced to stay at home due to taking care of a sick child.

Direct discrimination also includes **harassment** which occurs when unwanted or unpleasant conduct takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. Harassment can be sexual, gender-based or related to characteristics stated in the Equal Treatment Act (colour, sexual identity etc.). The act or conduct is generally repeated, in more severe cases a single incident suffices. The act may also be creating an unpleasant environment which affects the general work or learning environment. **The addressee decides whether a conduct is wanted or not.**

**Sexual harassment** occurs where any form of unwanted verbal, non-verbal or physical conduct or activity of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment. Physical contact is not a prerequisite of sexual harassment.

*Example.* A colleague is constantly sending another colleague disturbing ambiguous e-mails with a sexual undertone.

*Example.* A colleague or employer stands close to the co-worker when talking, touches or pats them despite it being unpleasant for the addressee, who has expressed this to the person who touches them. Although the toucher argues they simply wish to be friendly, the other person feels harassed.

**Gender-based harassment** occurs where unwanted conduct or activity related to the sex of a person occurs with the purpose or effect of violating the dignity of a person and of creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment. Gender-based harassment does not have a sexual undertone, it denotes unfair treatment on the grounds of the person being a woman or man. This usually derives from the harasser's biased generalisations about one or the other gender. Gender-based harassment also occurs when a person feels that someone's conduct humiliates them on grounds of performance of family obligations

*Example.* Men in the staff feel pressured to work longer hours because according to the superior's opinion men must prioritise their work and it is first and foremost women's duty to take care of family and home.

*Example.* Colleagues who do not have children are expected to work longer hours because it is thought they do not have the obligation to take care of their family and home.

*Example.* The lecturer suggests a pregnant student to take academic leave because the student is not

*capable of studying and will not pass the exam anyway in such a condition.*

***The following is not deemed discrimination:***

- *a co-worker receives additional remuneration or performance pay for additional work;*
- *due to the work schedule an employee is not able to take leave every year at their requested time;*
- *giving an additional work task if it is related to the tasks agreed in the employee's employment contract;*
- *politely holding the door for a woman or man or offering help.*

### **1.2. Indirect discrimination**

Indirect discrimination is taken to occur where an apparently neutral provision, criterion or practice would put persons, on grounds of any characteristic protected by the law, at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

*Example.* Although the unit has international employees, important meetings are often held in Estonian. International employees feel left out and participate less and less in the unit's activities.

*Example.* Communication in an English-taught course is in Estonian because the majority of students are Estonians (on lists, forums etc.). International students do not get enough information to participate and their progress is not as good.

*Example.* A committee member requires a wheelchair to move about. However, committee meetings always take place in a certain location without wheelchair access.

### **1.3. Victimisation**

Discrimination occurs also in a situation where one person is treated less favourably than others or negative consequences follow because he or she has filed a complaint regarding discrimination or has supported a person who has filed such complaint.

*Example.* A female employee asks her superior to reason the salary difference between her and a male employee who does the same work. The superior is unable to give reasons for the salary difference so the employee suspects gender-based discrimination and addresses the gender equality and equal treatment commissioner for an opinion. After the superior hears of the address, they begin to degrade the employee in front of other colleagues, referring to the employee's poor work results.

*Example.* A student addresses the head of the structural unit managing the curriculum in relation to the lecturer's racist remarks in the lecture. The lecturer decides to "punish" the student who filed the complaint by ridiculing them in front of other students.

### **1.4. Order for discrimination**

Discrimination includes giving discriminatory orders. The person who gave the discriminatory order is responsible.

*Example.* The employee who organises job interviews is told to invite only people of Estonian nationality to the interviews.

## 2. Bullying

Laws do not cover all forms of bullying and so it is important that employees and students receive counselling and help when improper behaviour is not directly related to the characteristics protected by the aforementioned legal acts.

Bullying in the workplace or learning environment is **repeated and long-term and ungrounded hostile and unethical behaviour** towards a member or group of members of an organisation which puts them in a helpless and unprotected position and might be a hazard to their health and safety.

Bullying may occur as:

- verbal abuse and threats, yelling, calling names or creating guilt;
- giving meaningless or undoable work tasks, setting impossible deadlines, excessive control or unreasoned criticism;
- ignoring, concealing necessary information, disregard or isolation;
- spreading slander, public humiliation or ridicule.

*Example. A student keeps making “humorous” public remarks during the lecture about a fellow student’s distinctive appearance and the bullied student no longer attends the lecture.*

*Example. For each seminar the lecturer selects a student to question intensively and whose answers and opinions to ridicule at any chance.*

*Example. A student who failed to submit their homework on time sends rude messages to the lecturer demanding the lecturer to make an exception. The student keeps sending messages, despite the lecturer’s explanation.*

Conflicts between people cannot always be avoided, any argument, fight or misunderstanding does not automatically constitute bullying.

### ***The following are not considered bullying:***

- *one time conflict where the employee/student was insulted or yelled at;*
- *reasonable orders by the superior/lecturer which are related to work/studies;*
- *providing feedback about unsatisfactory study or work results, constructive criticism;*
- *expressing different or critical opinions, heated argument.*

## 3. Responsibility

Everyone is entitled to a learning and work environment which respects a person’s dignity. Everyone also has an obligation arising from the law but also a general moral obligation to prevent discrimination/bullying. **All university employees and students are responsible for creating, supporting and maintaining a work and study environment free of discrimination and bullying.**

Special emphasis is on the responsibility of the **heads of structural units and immediate supervisors** in ensuring that the work environment in their unit is free of discrimination and bullying. Well-managed diverse staff supports constructive cooperation, creativity and innovation and the work and leisure time balance of the employees in the best possible way. The organisation of work should take into consideration an employee’s family-related duties or other important duties or special needs: for example, it should be seen that meetings end within working hours, working premises and tools are adjusted to the employee’s special needs etc.

The **person conducting studies and head of structural unit** must ensure that studies are conducted in a pleasant environment which promotes learning and where students feel good and safe. Member of the teaching staff shall guarantee equal treatment and equal learning opportunities for all students and shall objectively evaluate the achievement of learning outcomes.

The university doesn’t approve sexual and business-related relationships between **supervisor and supervised student**. Such relationships are a source of potential conflicts of interest, affect the mentoring relationship and atmosphere and may affect the equal treatment of third parties. On such occasions, it is recommended that the supervisor initiate appointing a co-supervisor or a new

supervisor to his supervised student. This is the responsibility of the supervisor who has influence over the supervised student.

*Bullying or discrimination is never only a matter between two people, it also affects witnesses. Any bullying/discrimination deteriorates the general work or learning environment of the entire group. The effect may be long-term because it takes time for the state of relations to normalise in the work or learning environment.*

#### **4. Advice on how to react to discrimination/bullying**

##### **4.1. If you are an employee or student of the university and feel you are discriminated/bullied in your workplace or studies**

- Tell or write to the person that their conduct is unacceptable and ask them to stop. You can also let them know that if the situation persists, you will file a complaint. If you are afraid to contact the bully yourself, ask a trustworthy person to do it.
- Write down the entire chain of events with dates and times so it is easier to recall all the details later.
- Collect and keep all written evidence (e-mails etc.). If other people happen to witness the situation, make a note of it because eyewitness accounts could be an important evidence. Evidence is very important to identify discrimination or bullying.
- Do not keep your problem to yourself. If you are an employee, inform your immediate supervisor or head of the structural unit of your problem. If you are studying at the university, address the head of the structural unit managing the curriculum (in case of residency the vice dean for residency; in case of continuing education the head of the structural unit conducting continuing education) or inform the dean. If you feel you did not receive any help, you can file an official complaint.
- Students are offered psychological counselling by student psychologists of the Office of Academic Affairs (tel. +372 737 6211, e-mail: [psyhholoog@ut.ee](mailto:psyhholoog@ut.ee)), employees are offered support by Counsellor-Chaplain professor Tõnu Lehtsaar ([tonu.lehtsaar@ut.ee](mailto:tonu.lehtsaar@ut.ee)). They do not resolve complaints but you can discuss your problem with them in confidence and discuss possible solutions.
- Submit all the necessary information to the person who deals with the complaint and let them know what you think would be the best final solution.
- In case of physical violence or some other threatening situation (e.g. someone is following you), also go to the police.

*You have the right to file a complaint. Even if discrimination or bullying is not proven during the investigation, it does not mean that you have done something wrong. You have only acted wrong if you knowingly lied when filing a complaint. In that case your complaint is adverse and the university may apply respective measures to reprimand you.*

##### **4.2. If you see your colleague or fellow student being bullied/discriminated**

- Talk to the person who is discriminated/bullied and show your support.
- Understand that your intervention and noticing the situation in any way is important because often the person who is discriminated/bullied is afraid to look for help.
- If you see that the situation has not changed and you feel safe, intervene and tell the discriminator/bully that their conduct is not acceptable. If you do not wish to intervene personally, inform the person noted in the following chapter of the situation.
- Be cooperative if your statement as an eyewitness is required.

*Anyone can file a complaint if they have witnessed discrimination or bullying or sense a disturbing, threatening, hostile, derogatory, humiliating or insulting atmosphere, even if someone else is the direct victim. Discrimination or bullying that goes unnoticed makes everyone in the group a potential victim. Therefore, it is important that the witness intervenes or turns attention to it.*

#### **4.3. If you are a university employee to whom a discrimination/bullying complaint has been submitted**

- Do not wait, act immediately and acknowledge the seriousness of the situation.
- The sooner you handle the complaint, the more likely you are to find a solution.
- First talk to the person who filed the complaint, be objective, do not blame or judge.
- Include the complainant in the process of resolving and coordinate the main methods and activities with them.
- Ask for advice from the Human Resources Office (for employee-related complaints) or the Office of Academic Affairs (for student-related complaints).
- Record the main events and circumstances of which you have learned when resolving the complaint.
- Evaluate the situation based on objective circumstances and do not let the opinion of the majority shape your conduct and viewpoint.

*Share the information related to the complaint only with people with whom it is necessary to consult or who it is necessary to inform to find a solution. Explain the sensitive nature of the case and need for confidentiality to the people you include.*

#### **4.4. If you are a university employee or student about whom a discrimination/bullying complaint has been filed**

- Talk to the person handling the complaint and explain the situation from your viewpoint.
- Even if you feel that you have done nothing wrong, do not depreciate the feelings of the complainant and immediately put an end to the alleged improper conduct.
- No one is condemned solely on the basis of a complaint.

### **5. Resolution of complaints**

#### **5.1. Where to appeal**

If you are a university **employee** and feel you are being discriminated or bullied in your workplace, you can appeal to:

- a) your immediate supervisor;
- b) the head of structural unit if you have not received an answer to your complaint from the immediate supervisor or if the immediate supervisor is the discriminator/bully or is clearly siding with the discriminator/bully;
- c) the dean or in case of support units the area director or vice rector if the head of structural unit is the discriminator/bully or is clearly siding with the discriminator/bully or is unable to find a solution.

If you are a **student or person conducting studies** and feel you are being discriminated or bullied in your learning environment, you can appeal to:

- a) the head of the structural unit managing the curriculum (in case of residency the vice dean for residency; in case of continuing education the head of the structural unit conducting continuing education);
- b) the dean if the problem is broader or the head of structural unit is unable to find a solution, the head of structural unit is the discriminator/bully or is clearly siding with the discriminator/bully.

If a solution has not been found in the course of the above process or the solution is not satisfactory and you feel the case needs official intervention and evaluation, you can file an **official complaint to the academic secretary** via e-mail or mail. You can also file the complaint without following the abovementioned process. The document form of the complaint is available on the university website and intranet.

*The complaint must indicate how the case is related to working or learning at the university, these guidelines do not apply to strictly private conflicts.*

The academic secretary has the right to:

- a) investigate the complaint independently or
- b) form an unbiased committee which has at least three members.

**Activities of the academic secretary / committee in resolving the complaint are the following.**

1. Asking for explanations from all parties related to the complaint and possible eyewitnesses. In case of employee complaints, from the immediate supervisor and/or head of structural unit of complainant and the alleged discriminator/bully.
2. Examining the evidence of the complaint.
3. Evaluating the situation described in the complaint on the basis of evidence and accounts.
4. Making a decision about whether there has been a violation. The written decision includes circumstances, collected evidence and a conclusion, also, if necessary, recommendations/proposals (e.g. changing the work organisation) or an order to the head of structural unit for further actions.
5. Possible decisions:
  - 5.1. discrimination or bullying occurred or most likely occurred;
  - 5.2. discrimination or bullying did not occur or most likely did not occur. This does not preclude the conclusion that the conduct of the alleged violator was still rude and/or unprofessional;
  - 5.3. it is not possible to form an opinion about the discrimination or bullying because the evidence is unreliable or there is not enough evidence and acquiring more proof is impossible.
6. The academic secretary can upon determining discrimination/bullying
  - 6.1. **by an employee (incl. a person conducting studies):** submit a proposal to the immediate supervisor and head of structural unit of the violator for an oral or written warning or to initiate the extraordinary termination of the employment contract;
  - 6.2. **by a student:** make a proposal to the vice dean for academic affairs to reprimand the student or for the student to be deleted from the matriculation register for improper behaviour, in accordance with the study regulations (in case of a medical resident, a proposal can be made to exclude the medical resident from residency in accordance with the rules of residency; in case of a continuing education learner a proposal can be made to terminate their studies in accordance with the rules of continuing education).
7. If the circumstances justify and both parties agree to it, the investigation of the complaint can be replaced with an internal conciliation. In this case a decision is not made about the occurrence of discrimination/bullying. If the consolidation is unsuccessful, the investigation of the complaint continues.
8. After two months from making the decision/the consolidation, the academic secretary conducts a follow-up control and asks the head of structural unit if the situation has been resolved and if the order noted in the decision has been implemented and submitted proposals considered.

**The procedure of resolving employee complaints is shown in Annex 1, the procedure of resolving student complaints is shown in Annex 2.**

*The decision of the academic secretary/committee cannot be appealed within the university. A person who feels their rights have been violated can ask for advice from the gender equality and equal treatment commissioner. Discrimination disputes shall be resolved by the chancellor of justice by way of conciliation proceedings. Discrimination disputes shall be resolved by the court or labour dispute committee.<sup>2</sup> An injured party may demand that the damage be compensated within one year after the date when the injured party became aware of the damage caused.*

<sup>2</sup> The labour dispute committee handles only disputes related to employment relations.

**NOTE! If you are a student and think that an incorrect decision in matters of organisation of study has been made due to discrimination or bullying (e.g. not allowed to take an exam, incorrect grade etc.) and you wish to appeal the decision, you must do so in accordance with the terms and dates provided in the study regulations (in case of residency in accordance with the rules of residency; in case of continuing education in accordance with the rules of continuing education).**

**If discrimination has occurred when applying for studies at the university and you wish to appeal the admission decision, you must do so in accordance with the terms and dates provided in the rules of admission (in case of residency in accordance with rules of residency; in case of continuing education in accordance with rules of continuing education).**

## **5.2. Principles of investigation**

The complaint should be resolved as quickly as possible but the duration of the investigation may be different for each complaint depending on the specific circumstances. The person investigating the complaint shall handle the complaint thoroughly and impartially and ensure that the person who filed the complaint is safe from possible persecution.

It is important that the person who investigates the complaint keeps the complainant informed and coordinates important decisions with them. The requests of the complainant must be taken into consideration for the method to be applied and final solution. Investigation of the complaint requires explanations from the alleged discriminator/bully as well as all possible eyewitnesses. The person investigating the complaint also needs to inform all respective superiors and the Office of Academic Affairs or Human Resources Office. In each case the people who are involved with resolving the complaint have an obligation of confidentiality and they shall not disclose the information they have obtained to third parties.

*The person investigating the complaint shall do everything to reach a reasonable and justified conviction that discrimination or bullying probably occurred or did not occur. Making the decision does not require the person investigating to prove that discrimination or bullying occurred with a 100 percent certainty.*

## **5.3. Follow-up activities and consequences**

### Employee complaints

The person investigating the complaint informs the complainant and the alleged violator of the decision and also informs the respective superiors and Human Resources Office. If the person investigating the complaint believes that discrimination/bullying occurred or most likely occurred, an oral or written warning to the violator or in more severe cases extraordinary termination of the employment contract should be considered. The respective sanction is applied together with the Human Resources Office.

The superior also needs to consider possible changes in the organisation of work: should the complainant or bully be located in another room or building or should something else be done to restore a peaceful work environment (assign one of the parties to a home office for some time, enable consultations with a psychologist etc.). It is also important to observe the work environment so that the complainant is not subject to retaliation by the discriminator/bully.

### Student complaints

The person investigating the complaint informs the complainant, alleged violator and, if necessary, the Office of Academic Affairs of their decision.

If the person investigating the complaint determines that a student has discriminated or bullied another student or person conducting studies or done so most probably, the vice dean for academic affairs has the right to reprimand that student or make a proposal to the vice rector for academic affairs to delete the student from the matriculation register for improper behaviour in accordance with the provisions of



the study regulations (in case of residency the vice dean for residency has the right to make a proposal to the vice rector for academic affairs to delete the medical resident from the matriculation register; in case of continuing education the university has the right to terminate the studies of the continuing education learner).

If the person investigating the complaint determines that a person conducting studies has discriminated or bullied a student or done so most probably, the immediate supervisor and head of structural unit of the person conducting studies and Human Resources Office are informed. In such case the immediate supervisor can together with the head of structural unit and in cooperation with the Human Resources Office reprimand the employee orally or in writing or initiate the extraordinary termination of the employment contract.

If the person investigating the complaint has come to the conclusion that the activities of the person conducting studies have caused negative consequences related to the organisation of studies, they advise the student on the possibilities to appeal the decision in matters of organisation of study.

## **Annexes**

1. Scheme for the resolution of employee complaints
2. Scheme for the resolution of student complaints

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