



**This is a convenience translation for information purposes.
In case of any differences in meaning, the German version is binding.**

Friedrich Schiller University Jena
Policy for the Protection Against Discrimination, Harassment, and Violence
Effective from 27 February 2023

In accordance with the preamble of Friedrich Schiller University Jena's Constitution in conjunction with Section 5, Subsections 7 and 8 of the Thuringian Higher Education Act (Thüringer Hochschulgesetz, ThürHG) in the version effective from 10 May 2018 (Official Gazette of the Federal State of Thuringia, p. 731, 294), as last amended by Article 1 of the Act effective from 7 December 2022 (Official Gazette of the Federal State of Thuringia, p. 483) and the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz, AGG) effective from 14 August 2006 (Federal Law Gazette I, p. 1897), as last amended by Article 1 of the Act effective from 23 May 2022 (Federal Law Gazette I, p. 768), the University's Senate adopted the following Policy for the Protection Against Discrimination, Harassment, and Violence on 25 October 2022. The President of Friedrich Schiller University Jena approved the policy on 27 February 2023.

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Preamble

As an educational institution and workplace under public law, Friedrich Schiller University Jena expressly commits itself to the principles of equality, diversity, and antidiscrimination as stated in its constitution and mission statement.

Our university community includes a wide range of individuals with different types of expertise, education profiles, gender identities and expressions, ethnic, cultural and social backgrounds, health conditions, family commitments, sexual identities and orientations, religions, and philosophies. The constructive interaction of their diverse perspectives, insights, competencies, and experiences constitutes a significant enrichment for studies, teaching, science, and management, and facilitates the achievement of excellent and innovative performance. The necessary prerequisite for this is that everyone at Friedrich Schiller University Jena finds acceptance in their individual personality and is able to contribute and develop their potential within the framework of university provisions and opportunities as best as possible.

For this to succeed without hindrance, the Senate of Friedrich Schiller University Jena has adopted this Policy for the Protection Against Discrimination, Harassment, and Violence. With this, the University of Jena affirms its responsibility to comprehensively protect the fundamental and personal rights of its members, affiliates and individuals associated with the University in their studies and work and to enable them all to participate and develop their potential as equals within the framework of their tasks, rights, and duties at the University. It is committed to making the University a place of study and work characterized by a fundamental respect for the personality and dignity of every individual, fairness, and antidiscrimination for all its members and affiliates in university life. This includes addressing infractions in a protected environment as well as seeking and implementing appropriate solutions.

With this policy and as stipulated in its constitution and mission statement, the University expressly states that it does not tolerate discrimination, harassment, and violence of any kind at the University. It consistently aims to eliminate and prevent such infractions, provide assistance and protection to those affected, and to stop misconduct in accordance with legal provisions.

§ 1 Central objectives

This policy has the following objectives:

1. to provide express information to the university community about the University's values, as defined in the constitution and mission statement, and their implications for interpersonal interaction in university and work life;
2. to sensitize and raise awareness of all University of Jena members and affiliates with respect to discrimination, harassment, and violence in university and work life, and to prevent misconduct;
3. to inform people affected by discrimination, harassment, or violence with respect to their rights, contacts, and possibilities for taking action;

4. to outline procedures to be followed in the event of incidents of discrimination, harassment, as well as possible consequences for discriminatory and harassing behaviour in order to protect those affected.

§ 2

Scope

- (1) This policy applies to all Friedrich Schiller University Jena members and affiliates in accordance with Section 21 of the Thuringian Higher Education Act (Thüringer Hochschulgesetz, ThürHG). In deviation from Section 98, Subsection 1, Sentence 2 of the Thuringian Higher Education Act (Thüringer Hochschulgesetz, ThürHG), it applies only to Jena University Hospital staff with teaching duties, in particular to university lecturers and research employees.
- (2) Furthermore, the policy applies for the benefit of and with respect to individuals who are not affiliated with the University under employment or public service contracts, and who have no study or employment relationship with the University, but have a tangible relationship with the University. In particular, this includes those receiving scholarships as well as individuals who provide contractually regulated services for the University, participants in research, teaching, or events of the University, as well as individuals applying for studies, employment, or a scholarship at the University of Jena.
- (3) The policy applies to all structural units and all study and work contexts of the University. It covers analogue and digital communication equally.

§ 3

Principles

- (1) In accordance with Section 5, Subsections 7 and 8 of the Thuringian Higher Education Act (Thüringer Hochschulgesetz, ThürHG), Friedrich Schiller University Jena seeks to ensure within its area of responsibility and functional domain that the personal rights and rights to non-discrimination of all people within the scope of this policy are respected and protected irrespective of gender identity and expression, educational, ethnic, cultural and social background, age, disability and chronic illness, family status, sexual identity and orientation, appearance, education profile, religion, and philosophy.
- (2) All individuals referred to in Section 2, Subsections 1 and 2 are required to contribute through their personal conduct towards maintaining a culture of mutual acceptance, respect, and fairness in their studies, teaching, work, and management and by actively countering any form of discrimination, harassment, and violence as specified in Section 4.
- (3) Individuals affected by discrimination, harassment, and violence are encouraged to exercise their rights, to report inappropriate conduct to the competent contacts under Section 9, and to obtain their advice on options for taking action and receiving support in their prosecution of such offences. Individuals affected by such misconduct and those who support them may not experience any disadvantages as a result of exercising their rights.



§ 4 Definitions

- (1) The understanding of discrimination and harassment applied in this policy is based on the stipulations of the General Act on Equal Treatment (Section 3, Allgemeines Gleichbehandlungsgesetz, AGG) and includes the following forms of social discrimination and disadvantages.

No. 1 *Direct discrimination* is deemed to occur when an individual experiences less favourable treatment than another individual experiences, has experienced, or would experience in a comparable situation due to one of the reasons stated in Section 3, Subsection 1.

No. 2 *Indirect discrimination* is deemed to occur when ostensibly neutral provisions, criteria or procedures may particularly disadvantage individuals over others due to one of the reasons stated in Section 3, Subsection 1, unless the provisions, criteria or procedures concerned are objectively justified on the basis of a lawful objective, and the means to achieve this objective are appropriate and necessary.

No. 3 *Harassment* is a disadvantage that occurs when unwanted behaviours associated with one of the reasons stated in Section 3, Subsection 1 aim at or cause injury to the dignity of the affected individual and create an environment characterized by intimidation, indignity, or insults.

Special cases of harassment include systematic forms of psychological violence such as bullying and stalking if these are associated with one of the characteristics specified in Section 3, Subsection 1.

- *Bullying* is deemed to occur when an individual is exposed systematically and repeatedly to negative communicative acts by one or multiple other individuals over a prolonged period without justifiable reason.
- *Stalking* refers to deliberately, recurrently and transgressively pursuing, spying on, following, persistently harassing, threatening, and terrorizing an individual against their will, such that their safety is threatened and their way of life is extraordinarily impaired.

No. 4 *Sexual harassment* is deemed to occur when unwanted behaviour of a sexual nature is aimed at or causes injury to the dignity of the individual affected. Sexual harassment also includes unwanted sexual acts and solicitations for the same, physical contact of a sexual nature, comments with sexual content, and the unwanted showing and visible display of pornographic content. In particular, this applies when a study or work environment is created that is characterized by intimidation, hostilities, humiliations, indignities, or insults.

No. 5 Likewise, the *instruction to discriminate against an individual* for a reason stated in Section 3, Subsection 1 is considered discrimination. In particular, this includes if someone instructs an individual to behave in a manner that disadvantages or may disadvantage another individual due to one of the reasons stated in Section 3, Subsection 1.

- (2) When determining the existence of discrimination, its objectively demonstrable negative effect for on individuals affected is decisive. The motive of the individual performing the discriminatory act is not decisive.



§ 5

Prohibition of discrimination

- (1) Individuals within the scope of this policy may not be discriminated against or harassed in any manner specified under Section 4 for one of the reasons stated in Section 3, Subsection 1.
- (2) The forms of discrimination and harassment specified in Section 4 by individuals within the scope of this policy, as well as participation in such behaviour may constitute violations of duties under a contract, public service law, civil service law, and university regulations. This also applies if the individual who performs the discriminatory act merely assumes the existence of a reason stated in Section 3, Subsection 1.

Different treatment on the basis of particular professional or functional requirements, religion or philosophy, age or the existence of a factual reason is possible in defined cases (Sections 8–10 and 20 of the General Act on Equal Treatment, Allgemeines Gleichbehandlungsgesetz, AGG). For instance, the Youth Employment Protection Act for underaged trainees, employees, and participants in internships stipulates special engagement and working conditions. Different treatment is also permissible if disadvantages due to one of the reasons stated in Section 3, Subsection 1 are prevented or offset by suitable and appropriate measures (Section 5 of the General Act on Equal Treatment, Allgemeines Gleichbehandlungsgesetz, AGG, 'Positive measures'). For example, in order to enable people with disabilities or chronic illnesses to benefit from equal participation in studies, research, and work within the meaning of the United Nations Disability Rights Convention, the University must introduce special action plans in accordance with Section 5, Subsection 8 of the Thuringian Higher Education Act (Thüringer Hochschulgesetz, ThürHG) that eliminate disadvantages and barriers to participation for this target group in the University's operations.

§ 6

Responsibilities of the University and individuals with training, teaching, managerial, and supervisory duties

- (1) Friedrich Schiller University Jena takes preventive and structural measures to protect all individuals under Section 2, Subsections 1 and 2 against discrimination and harassment in order to counter these forms of misconduct at the workplace and in studies. In particular, these include:
 - (a) awareness of structural discrimination risks in decisions on all aspects of the University's development;
 - (b) public, multilingual, and accessible disclosure of the policy, its continued publication on the University website, and targeted and direct information for new students and employees at the University with respect to this policy (as part of the enrolment or hiring process);
 - (c) suitable information resources and qualification offers for all individuals within the scope of this policy (Section 2, Subsections 1 and 2);
 - (d) further training offers for individuals with executive, teaching, managerial, training, and supervisory duties on handling discrimination and conflicts in teaching, supervision, and work under consideration of the situation and protection of minors;



- (e) establishment of a forum for thematic exchange as well as needs- and topic-based further training formats for the staff of the advisory bodies (see Section 9, Subsection 2) and the members of the Complaints Committee (see Section 10, Subsection 2) on quality assurance and development;
 - (f) evidence-based further development of measures.
- (2) The University encourages and supports the individuals affected in exercising their rights and advises them comprehensively on possible courses of action to resolve the situation.
 - (3) By taking suitable measures for individual cases, the University is committed to ensuring that no personal, professional, or study-related disadvantages at the place of work or study are incurred to those who submit complaints, as well as individuals involved in the procedure in a supporting or witness function (Section 612a of the German Civil Code [Bürgerliches Gesetzbuch, BGB], 'Ban on disciplinary treatment').
 - (4) As a rule, individuals suspected of having committed misconduct as specified in Section 4 should not suffer any disadvantages until such misconduct has been formally determined as part of a complaints procedure in accordance with Section 10.
 - (5) Due to their special duty of care, individuals with training, teaching, managerial, and supervisory duties have a particular responsibility to ensure by means of their conduct and suitable preventive measures in their area of responsibility that:
 - a) interaction characterized by mutual respect and anti-discrimination is maintained and promoted at the place of study or work;
 - b) conflicts are addressed in a topic- and solution-oriented manner;
 - c) existing dependence relations are organized responsibly;
 - d) the special requirement for the protection of minors is observed and a special duty of care is implemented with respect to the same;
 - e) allegations of discrimination, harassment, and violence are investigated;
 - f) individuals affected do not suffer any further disadvantages at the place of work or study after reporting an incident of discrimination (in accordance with Section 6, Subsection 3).

§ 7

Right to seek advice and lodge a complaint

Any individual referred to in Section 2 who feels that they have been discriminated against under Section 4 of this policy has the right to obtain advice and lodge a complaint. Official channels need not be observed when initiating a procedure under Sections 8–10.

§ 8

Advisory and complaints procedure

- (1) The advisory and complaints procedure is a multi-step process. This includes an informal procedure for advice and support in dealing with the matter (Section 9). It may be followed by a formal complaints procedure (Section 10). Other options for advice and complaints



remain unaffected.

- (2) All individuals providing advice and involved in a complaints procedure on the part of the University must be reminded of their duty to secrecy applicable in their employment relationship and may only be released from this duty by the individuals affected. Students involved in a complaints procedure must be instructed to maintain secrecy to protect the personal rights of the individuals affected.
- (3) All steps towards conflict resolution must only be initiated and implemented with the express consent of the individuals affected in the individual case.
- (4) Conducting an advisory and complaints procedure in accordance with this policy does not preclude criminal prosecution and/or exercising claims under civil law. Legal claims to the elimination of the impairment or compensation claims must be submitted to the competent court within two months in accordance with Section 21, Subsection 5 of the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz, AGG), irrespective of the formal complaints procedure.

§ 9

Informal procedure: advice on handling the matter

- (1) The informal procedure is aimed at providing confidential advice and supporting the individuals affected under Section 4 in dealing with the matter and in relation to their rights and options for protection and taking action. It includes an initial consultation with one of the designated contact points and possible subsequent steps. The right of the individual affected to anonymity remains preserved in the context of the consultation. Contact points must treat the identity of all individuals affected as well as the content of the initial consultation confidentially.
- (2) Individuals affected may consult a range of individuals or contact points within the University for their initial consultation. They have the option of being accompanied or represented by an individual of their trust. A list of contact points for the initial consultation is provided in the appendix of this policy.
- (3) The contact points and individuals stated in Subsection 2 and listed in the appendix are obligated to review the matter presented and—with the consent of the individual affected, or in the case of affected minors the consent of the legal representatives— initiate appropriate measures for resolving the matter. Appropriate measures in the further course of the informal procedure include:
 - a) Advice on measures for the direct protection of the individual affected if an acute risk situation is identified at the place of study or work.
 - b) Further clarification and exploratory conversations. If necessary, the contact point that provided the initial consultation may inform the individuals affected of further supportive internal or external advisory services and refer them to such services. At the request of the individual affected, further clarification meetings may also be held that include the individual subject to the complaint.
 - c) Professional conflict moderation or mediation to achieve mutual resolution of the situation and the basis for continued collaboration.



- d) When utilizing external services for advice, conflict moderation, or mediation, it may first be necessary to determine the possible costs with the contact points responsible for the individuals affected at the University. The assumption of costs is limited to a consultation for clarifying the specific conflict matter. Further intervention or therapy costs are not borne by the University. Information can be obtained from the initial consultation contacts in Divisions 1 and 5.
- e) Advice and support of the individual affected in preparing and initiating a formal complaints procedure.
- f) In the event of a criminal offence, information on the possibility to file charges, lodge a criminal complaint, and assert claims under civil law.

§ 10

Formal complaints procedure

- (1) If it is not possible or reasonable to resolve the problem through the informal procedure, the individual affected may submit a formal complaint and thereby initiate a complaints procedure in accordance with the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz, AGG).
- (2) The duties of a complaints office under Section 13 of the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz, AGG) are performed by the AGG Complaints Committee. This is constituted by the Senate. As a rule, the Complaints Committee is chaired by a professorial member of the Faculty of Law. The further composition of the Committee is determined by the status groups involved in the conflict matter in the individual case. Committee members are respectively a member of the Senate and the divisional heads (Student Affairs / Human Resources) who represent or are responsible for the status group(s) involved. The Committee invites the members of the Executive Board who are competent in the matter of the conflict to attend as guests.
- (3) A formal complaint must be submitted verbally on record, in writing, or in text form to the coordination office of the AGG Complaints Committee set up in the Vice-Presidency for Early Career Researchers and Diversity Management (contact: agg.beschwerde@uni-jena.de). The complaint should describe the incidents and their consequences in specific terms, indicate and list any forms of evidence or witnesses, and specify which other individuals and contact points (such as in the informal procedure in accordance with Section 9) have been consulted in this matter and whether any measures have already been initiated.
- (4) Following submission of the complaint, the Head of the Committee constitutes the Committee, applying strict confidentiality for the protection of the individuals involved. In justified individual cases, the Committee is permitted to consult an expert (such as for translation, conflict advice, etc.) in the meetings with the complainant and the individual subject to the complaint. The meetings of the Committee are non-public. Resolutions are adopted by the members of the Committee by simple majority; in the event of parity of votes, the vote of the Head of the Committee is decisive.



- (5) Upon receipt of the complaint, the individual affected must be consulted to determine whether immediate measures are necessary for their protection and how these are to be initiated, if necessary.
- (6) The individuals involved in the complaints procedure are not entitled to anonymous treatment.
- (7) At the beginning of the procedure, the complainant and the individual(s) subject to the complaint must be informed about their further rights under this policy and the formal complaints procedure in Section 10. They have the option of being accompanied by a representative body (such as the Staff Representative Council, the Equal Opportunities Officer, or the Diversity Officer). Irrespective of the above, minors must be accompanied by their legal guardians.
- (8) The Complaints Committee must ask the individual subject to the complaint to provide a statement on the complaint verbally on record, in writing, or in text form within the period stipulated. Following receipt of the statement or expiry of this period, the individual is invited to a personal meeting.
- (9) The individual subject to the complaint as well as individuals who may serve as witnesses to the incident are not obligated to provide a statement to the Complaints Committee.
- (10) The Complaints Committee reviews the matter in consideration of all relevant information. It must document all meetings in writing. Records of verbal hearings must be signed by the individuals heard.
- (11) Insofar as the reviewed matter does not constitute discrimination or harassment as specified in Section 4, the Complaints Committee must notify the two parties in the complaints procedure of the result of the review including their reasoning. In this case, the individual subject to this complaint is entitled to a written account of the review result (without reasoning) being provided to the persons they consider relevant.
- (12) Should the review by the Complaints Committee determine that the matter constitutes discrimination or harassment as specified in Section 4, conflict resolution is initiated within the framework of the University's duty to instruct and supervise as an educational institution and workplace. If the Complaints Committee holds the view that the matter constitutes a violation of duties under university regulations, employment law, or public service law, this is reviewed by the responsible bodies and any corresponding measures must be taken in accordance with the provisions of applicable university regulations, employment law, or public service law.
- (13) Once the matter has been deemed to constitute discrimination or harassment, the Complaints Committee must inform the Executive Board of the result of its review and propose reasonable measures to prevent further misconduct.



§ 11

Measures to prevent further misconduct

- (1) The Executive Board decides on the necessary and appropriate measures to prevent misconduct as specified in Section 4 on the basis of the report of the Complaints Committee. The parties involved in the complaints procedure and the Complaints Committee must be informed of the decisions and measures taken. Where the chosen measures affect the performance of studies or work, the corresponding departmental heads must be informed.
- (2) The position of the individual accused of misconduct as specified in Section 4 under university regulations, employment law, or public service law, the severity of the misconduct, and any misconduct determined in the past are taken into consideration when deciding on measures.
- (3) Discrimination and harassment as specified in Section 4 are deemed particularly severe if the misconduct occurred with the abuse of dependence relations or in breach of the duty of care.
- (4) If a university employee is accused of misconduct, the University reviews appropriate consequences under employment or public service law. This includes holding a regulative formal staff or service meeting, exclusion from the use of university facilities, measures related to the authority to control access and enforce house rules that eliminate further violations, revocation of a teaching mandate, verbal or written instructions and warnings, written disciplinary warnings, relocation or assignment to a different workplace of the University, revocation of managerial responsibility, ordinary or extraordinary termination of the employment relationship, or the initiation of a disciplinary procedure for tenured staff.
- (5) Administrative measures in accordance with Section 76 of the Thuringian Higher Education Act (Thüringer Hochschulgesetz, ThürHG) may be initiated against students where statutory requirements are met. This includes verbal or written warnings, measures related to the authority to control access and enforce house rules that eliminate further violations, the threat of removal from the register of students, exclusion from the use of university facilities, exclusion from participation in individual classes for up to one semester, and removal from the register of students.

§ 12

Abuse of the complaints procedure

If the complainant's allegations turn out to be deliberately untrue with the intention of harming the accused individual, the complaint is considered abuse of the complaints procedure. In this case, Section 11 applies accordingly.



§ 13 **Statistics**

All advisory and complaints bodies may collect case numbers and discrimination categories in anonymized form in compliance with data protection. They may transmit this data to the Office of the Vice-President for Early Career Researchers and Diversity Management as case statistics at the end of a calendar year. The anonymous data is summarized as aggregate statistics, reported to the Senate, and presented in the internal diversity monitoring system. The information is used for quality assurance and development of the advisory and support services and the development of preventive measures.

§ 14 **Data protection and collection**

The collection of personal data in the aforementioned procedures and meetings (Sections 7–10) must be limited to the absolute minimum required and appropriately protected through suitable technical and organizational measures. Personal data must be securely deleted following the definitive conclusion of a procedure in accordance with Sections 9 and 10. The data subjects must be informed of data processing. The implementation of data protection-compliant data collection, storage, and deletion must be overseen and monitored by the University's Data Protection Officer and the Staff Representative Council. The University's Data Protection Officer must be informed of the initiation and continuation of any procedure under Section 10; where employees are involved, the Data Protection Officer of the Staff Representative Council must also be informed.

§ 15 **Entry into force**

This policy enters into force on the day following its publication in Friedrich Schiller University Jena's Gazette.

Jena, 27 February 2023

Prof. Dr Walter Rosenthal
President

Appendix: Contact points for the initial consultation according to Section 9 'Informal procedure: advice on handling the matter'

The contact points are listed on Friedrich Schiller University Jena's website

<https://www.uni-jena.de/en/193325/antidiscrimination>