

Protection of personal integrity: Foundational Principles at the University of Bern

1. Introduction

The University of Bern is committed to promoting equal opportunities and equality for all members of the University. It does not tolerate any form of discrimination and is obligated, based on the legal provisions applicable to the University, to take preventive and mitigating measures to protect personal integrity¹ and maintain orderly institutional operations. All members of the University of Bern have the right to be treated in a manner that respects their dignity and preserves their personal integrity.

This paper describes the University of Bern's commitment to protecting personal integrity, particularly in relation to discrimination, as well as the legal options available.² Anyone who feels that their personal integrity has been violated can seek advice and support from the offices listed below.³

2. Definition of discrimination

Discrimination is any act or statement aimed at treating a person unequally or degrading them, particularly on the basis of the following characteristics:

- Gender and gender identity
- Physical and mental disability
- Age
- Ethnic origin (language, nationality, skin color, migration experience, religion)
- Social background and status
- Sexual orientation

Unacceptable behavior includes verbal and non-verbal statements or physical actions, such as:

¹ See, for example, Art. 4 para. 1 section g of the Personnel Act of the canton of Bern.

² There are separate principles regarding sexual harassment.

³ The prerequisite is that the allegation of a breach of personal integrity has been made in the context of the University and that the persons concerned are members of the University of Bern at the time of the breach of personal integrity. Affected third parties can submit a report to the contact point.

- Intimidating, hostile, degrading, humiliating and offensive remarks or gestures towards staff and students based on the above characteristics
- Systematic disadvantage, marginalization and exclusion due to one or more of the above characteristics in access to University positions, resources and facilities
- Displaying, posting, distributing, or making available material that incites hatred or discrimination
- Unjustified restriction of personal freedoms (e.g. exercising religious freedom)

3. Procedure of the University in the event of reports of v of personal integrity

3.1 Fundamental obligations of the University in the event of discrimination

The University of Bern takes reports of violations of personal integrity seriously and proceeds appropriately depending on the situation. Reports will be treated confidentially. Actions will only be taken with the express consent of the affected person. Specifically, the following applies:

The following points of contact are available for advice and support:

Internal Contact Point within the University:

The internal contact point receives reports of incidents confidentially, supports persons concerned and advises them on their options and the next steps.

- Office for Equal Opportunities: https://www.unibe.ch/university/portrait/self_image/equal_opportunities/advisory_service/index_eng.html
Receiving reports of discrimination, advising and supporting those affected, triage.

If further clarifications or measures are required, the University's internal contact point will involve other relevant offices (HR, Legal Services). Information on internal procedures in the event of a report is provided in the document "Procedure for Submitting Reports of Personal Integrity Breaches, in particular Cases of Discrimination, for Students and Staff".

External Point of Contact:

The external point of contact receives reports on incidents confidentially, provides support to affected individuals (e.g., psychological support), and advises them on possible next steps. It has no obligation to take action regarding the accused person.

- Counselling Services of the Universities of Bern
<https://www.bst.bkd.be.ch/en/start/dienstleistungen/beratungen.html>
Free advice, support and guidance.

3.2 Taking Measures / Sanctions

The University is responsible for taking appropriate measures or sanctions in specific individual cases, taking all relevant circumstances into account. In doing so, it is guided by University regulations and personnel legislation as well as any other applicable legal provisions.

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Possible measures/sanctions

Employees <i>(labor law measures)</i>	Students <i>(disciplinary measures/sanctions)</i>
<p>Depending on the severity of the misconduct, the following options under employment law will be considered:</p> <ul style="list-style-type: none">- Admonishment- Directive regarding conduct- Formal Warning- Ban from specific areas- Temporary suspension- Ordinary termination or termination without notice⁴	<p>The University of Bern reserves the right to impose disciplinary measures/sanctions on students based on its disciplinary authority. The University's disciplinary regulations provide for the following possible sanctions⁵:</p> <p><u>In the case of minor breaches of the disciplinary code:</u></p> <ul style="list-style-type: none">- Reprimand by the Dean <p><u>In the case of serious or repeated breaches of the disciplinary code, the following measures may be taken, depending on the specific circumstances:</u></p> <ul style="list-style-type: none">- By the Rector: Reprimand or ban from entering University premises;- By the University Executive Board: temporary or permanent exclusion from individual courses, from the use of individual University institutions or from studies entirely.

The University of Bern reserves the right to take further legal action.

4. False accusations

The University does not tolerate discrimination – nor does it tolerate false accusations. Deliberate false accusations can also result in disciplinary sanctions.

⁴ Termination without notice shall be effected for good cause, i.e. if continuation of the employment relationship can no longer be reasonably expected (cf. Art. 26 Personnel Act).

⁵ Cf. Art. 78a Act governing the University in conjunction with Art. 47 University Ordinance.

For University of Bern employees only:

Regulatory notification to the University Executive Board:

Employees may submit a regulatory notification to the University Executive Board in accordance with Article 106 of the Personnel Act (PG) if they believe that appropriate measures have not been taken despite a report of discrimination. This will initiate an administrative procedure.

5. Additional options for persons affected

If the internal clarifications and measures do not lead to any, or unsatisfactory outcomes, the person concerned has the following additional options and entitlements⁶:

University of Bern employees only:

Regulatory notification to the University Executive Board: Employees can submit a regulatory notification to the University Executive Board in accordance with Art. 106 of the Personnel Act (PG) if they believe that the necessary measures have not been taken despite discrimination being reported. This will initiate an administrative procedure.

Conciliation procedure under the Gender Equality Act (in cases of discrimination on the basis of sex): If the internal clarifications and measures do not lead to any or unsatisfactory solutions, the person concerned has the option of submitting a request for conciliation to the cantonal conciliation authority in accordance with Art. 5 of the Gender Equality Act. The conciliation procedure is a simple and informal process, independent of the courts.

For University of Bern students only:

Regulatory notification to the University Executive Board: Students may file a regulatory notification to the University Executive Board in accordance with Art. 101 of the Administrative Procedure Act (VRPG⁷) if they believe that the necessary measures have not been taken despite a report of discrimination.

Criminal charges

Criminal charges may be filed against the perpetrator (e.g. on grounds of Art. 261bis Swiss Criminal Code, SCC, discrimination and incitement to hatred or Art. 177 SCC, abuse).

⁶ Members of the University of Bern have further options available to them in the event of sexual harassment in the workplace (see "[Sexual harassment: basic principles at the University of Bern](#)" in German)

⁷ Administrative Procedure Act of the Canton of Bern of May 23, 1989 (VRPG; BSG 155.21).

Appendix 1: Legal foundations

The framework for the University and its obligations as well as the legal possibilities of those concerned result from the following principles, among others:

1. Federal Constitution of the Swiss Confederation (Federal Constitution; SR 101)
2. Federal Act on Gender Equality of March 24, 1995 (Gender Equality Act, GIG; SR 151.1)
3. Swiss Criminal Code of December 21, 1937 (StGB; SR 311.0)
4. Federal Act on Employment in Industry, Trade and Commerce of March 13, 1964 (Employment Act, ArG; Art. 6; SR 822.11)
5. Ordinance 3 to the Employment Act (ArGV 3; Art. 2; SR 822.113)
6. Federal Act on the Elimination of Discrimination against Persons with Disabilities (Disability Discrimination Act, BehiG, SR 151.3)
7. Introductory Act to the Federal Act on Gender Equality of the Canton of Bern of November 16, 1998 (Introduction Act GIG, EG GIG; BSG 152.072)
8. Personnel Act of the Canton of Bern of September 16, 2004 (Personnel Act, PG; BSG 153.01)
9. Personnel Ordinance of the Canton of Bern of May 18, 2005 (Personnel Ordinance, PV; BSG 153.011.1)
10. Act governing the University of the Canton of Bern of September 5, 1996 (University Act, UniG; BSG 436.11)
11. University Ordinance of September 12, 2012 (University Ordinance, UniV, BSG 436.111.1)
12. Statute of the University of Bern of June 7, 2011 (University Statute, UniSt)
13. Regulations on Gender Equality at the University of Bern of December 14, 1994, issued by the Senate of the University of Bern (hereinafter: "Regulations for Gender Equality, RfG")

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