

**Guidelines on protecting against discrimination and  
harassment, taking into account  
the General Equal Treatment Act at the Filmakademie  
Baden-Württemberg  
from 1 December 2023**

**Preamble**

The Filmakademie Baden-Württemberg considers itself to be a fair and safe place to study, teach and work, free from discrimination and violence. To achieve this, the members of the university cultivate a culture of respectful cooperation as well as honest and considerate behaviour towards one another and third parties. The Filmakademie Baden-Württemberg does not tolerate any form of discrimination or harassment by members of the academy. This position is also expressed in the employment agreement entitled "Respectful conduct" dated 5 December 2017, which covers all other forms of psychological and physical violence that are not related to the categories listed in § 2 (1). These include bullying, stalking, physical violence and abuse of power.

The Baden-Württemberg Film Academy promotes a culture of awareness – of not looking the other way. If they become aware of cases of discrimination or harassment, members of the Filmakademie are expected to offer support to those affected and assist them in resolving the conflict.

The Filmakademie Baden-Württemberg fosters an environment that allows people affected by discriminatory or abusive behaviour to address these incidents while taking all valid interests into account.

The purpose of this policy is to raise awareness of harassment and discrimination, to establish measures for preventing such behaviour and to ensure genuine equality. It also sets out procedures for intervention.



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**§ 1**

**Scope of application**

- (1) The guidelines apply to all members and those affiliated with Filmakademie Baden-Württemberg. Members and affiliates of the Filmakademie Baden-Württemberg are:
1. employees at the Filmakademie Baden-Württemberg,
  2. freelancers and part-time workers,
  3. enrolled students as well as exchange or guest students and all apprentices or other persons employed in the course of their training
  4. participants of further training programmes, workshops and seminars,
  5. lecturers and visiting lecturers,
  6. honorary professors, external lecturers and unscheduled substitutes,
  7. individuals who are paid from third party funds,
  8. people involved in Filmakademie Baden-Württemberg projects
  9. as well as all persons who are at the Filmakademie Baden-Württemberg on a temporary basis or as guests.
- (2) These guidelines apply to the entire campus, all external sites belonging to Filmakademie Baden-Württemberg and to all functional areas of the organisation. They also apply to work trips, excursions, events and filming. The geographical scope of application also includes journeys made directly to or from campus in connection with activities at the Filmakademie. The same applies to journeys made immediately before or after business trips, excursions, events and filming.
- (3) These guidelines also apply to acts of discrimination and harassment committed by or against third parties in any area of Filmakademie Baden-Württemberg if at least one of the persons involved belongs to the group of persons defined in section 1.

**§ 2**

**Definition of terms**

- (1) The guidelines cover direct and indirect forms of discrimination and harassment related to
  - a) race or ethnicity
  - b) gender or gender identity
  - c) sexual identity
  - d) religion or ideology
  - e) limitations that are categorised as disabilities or chronic illnesses
  - f) age.
- (2) An instruction to discriminate against a person on any of the grounds set out in section 1 shall be deemed to be discrimination.
- (3) It is deemed to be direct discrimination if a person is treated less favourably than another person is, has been or would be treated in a comparable situation on account of one or more of the categories listed in section 1.
- (4) Indirect discrimination occurs when seemingly neutral regulations, criteria or procedures put persons at a particular disadvantage compared to other persons because of one or more of the categories stated in section 1.
- (5) Discrimination as per sections 3 and 4 does not exist if the disadvantage is objectively justified by a legitimate aim and the means of achieving this aim are considered proportionate.
- (6) Harassment is considered to have occurred if unwanted behaviour associated with one or more of the categories mentioned in section 1 has the purpose or effect of violating the dignity of the person concerned. This is particularly the case if an environment has been


created that is characterised by intimidation, hostility, humiliation or insults.

- (7) Sexual or racial harassment is any sexually or racially motivated behaviour that violates the dignity of those affected, especially if it creates an environment characterised by intimidation, hostility, humiliation, degradation or insult. Sexual or racial harassment includes derogatory or degrading remarks, gestures or depictions of sexual or racist content, the unwanted display and visible positioning of pornographic or racist depictions as well as the copying, distribution, application and use of obscene, sexually degrading or racist digital media content within or in connection with the IT infrastructure of Filmakademie Baden-Württemberg that violates the dignity of individuals. Sexual or racial harassment and discrimination can be verbal, non-verbal and/or physical in nature. However, it is not sexual or racial harassment if the copying, dissemination, application or use of the content described in sentence 1 is for illustrative purposes in the context of courses and for the purposes of academic research.
- (8) The definitions of the General Equal Treatment Act (AGG), including the jurisdiction based thereon, shall apply accordingly to the application of these guidelines.

### **§ 3**

#### **General ban**

- (1) Discrimination that is not objectively justified or proportionate within the meaning of § 2 (5), as well as harassment within the meaning of § 2 (6) and (7) sentence 1, is to be refrained from. Such behaviour disrupts the running of the Filmakademie and will be investigated and sanctioned as a breach of employment and training contract.
- (2) All members and affiliates of Filmakademie Baden-Württemberg, in particular those with training, qualification and management



responsibilities in teaching, research, training, administration and self-administration, are responsible within their area of responsibility on account of their duty of care for ensuring that in particular sexual and racial harassment, discrimination and violence are prevented or eradicated and legally examined.

- (3) Any discrimination or harassment that exploits a relationship based on dependency at the workplace or in an educational setting, especially if it takes place under threat of personal or professional detriment, is considered extremely serious.

#### **§ 4**


#### **Guiding principles**

- (1) Within the scope of its responsibilities, Filmakademie Baden-Württemberg shall take suitable and appropriate measures to ensure that its members' and affiliates' rights to equal treatment and freedom from discrimination are respected and protected.
- (2) The Filmakademie Baden-Württemberg shall take the necessary measures to protect the groups of people named in § 1 (1) and (2) from discrimination and harassment. It shall take the positive measures formulated in § 5 and establish the procedures specified in § 6.
- (3) Anyone who, as an affected, potentially affected or uninvolved person, points out discrimination, harassment or behaviour that violates the dignity of persons must not be disadvantaged (prohibition of disciplinary measures).
- (4) Those affected are encouraged to exercise their rights and report cases of harassment, discrimination and violence they have experienced to the contact points and counselling services, and to seek advice and make complaints.

**§ 5**

**Positive  
measures**

- (1) The following core measures are taken with the aim of raising awareness, prevention and promoting true equality:
- a. publishing these guidelines in digital form and integrating them into the Filmakademie Baden-Württemberg's communication strategy
  - b. providing all Filmakademie members with information in German and English on anti-discrimination counselling services, complaints procedures and conflict resolution methods
  - c. enabling employees of the complaints office referred to in § 8 to take part in continuing professional development programmes, provided that they impart the knowledge required for their work
  - d. organising training courses on equal treatment and anti-discrimination for employees with supervisory, management and training responsibilities, employees tasked with personnel selection, as well as departments and employees with counselling responsibilities
  - e. establishing a long-term anti-discrimination working group to discuss equal treatment and prevention of discrimination at the Filmakademie Baden-Württemberg, which reports regularly to the Equal Opportunities and Diversity Commission
  - f. anchoring diversity and anti-discrimination practices in the recruitment process.
- (2) The Equal Opportunities and Diversity Commission is primarily responsible for the (further) development of the measures listed in section 1 and for

- 
- a. developing and proposing further measures to promote equal treatment and anti-discrimination in all areas of Filmakademie Baden-Württemberg
  - b. annually evaluating the awareness-raising and prevention measures
  - c. evaluating anonymous consultations and complaints
  - d. the annual report to the management of Filmakademie Baden-Württemberg and the works council on the effectiveness of the prevention strategy and measures.

## **§ 6**

### **Procedures to protect against discrimination and harassment**

The Baden-Württemberg Filmakademie has established two procedures to protect against discrimination and harassment: As part of the advisory process in accordance with § 7, an internal academy counselling service provides counselling and support for those affected. If necessary, they may involve external bodies. Individuals who provide counselling in the internal academy counselling service are obliged to maintain absolute confidentiality. Consultation processes or details thereof may not be disclosed, even at the request of the management, the complaints offices or other third parties, unless the person receiving counselling expressly and in writing releases the employees from the academy's internal counselling service from their obligation to maintain confidentiality. Those affected also have the option of lodging a complaint with the academy's own complaints office as part of the complaints procedure outlined in § 8. The counselling service or the complaints office can be contacted directly; official channels do not have to be followed.



§ 7

**Advisory process**

- (1) The Filmakademie Baden-Württemberg counselling service advises and informs the person affected by discrimination or harassment about the complaints procedure, about possible ways of resolving the conflict and about internal and external counselling and support services. The purpose of individual advisory sessions is to discuss options for action and prevention, including support in initiating the complaints procedure. If requested, they can accompany the persons concerned in dispute resolution and mediation meetings as well as in the complaints procedure. Advice is provided anonymously and in strict confidence.

Contact:

FABW counselling service

[beratung@filmakademie.de](mailto:beratung@filmakademie.de)

- (2) The Filmakademie Baden-Württemberg's contact points continue to provide advice and support to those affected by discrimination and harassment. The contact points assess the issues and need for guidance and if necessary, refer the person to one of the counselling services mentioned in § 7 (1).

The contact points for this purpose are:

a. **Internal contact points:**

- Diversity and Inclusion Strategy Coordinator
- Equal Opportunities Officer for employees
- Equal Opportunities Officer of the students
- Officer for Occupational Integration Management
- Coaching programme and conflict resolution advice
- Liaison Officer for International Students
- Liaison Officer for Students with Disabilities

- Representatives of the Works Council
- Representatives of the AStA (General Students' Committee)


b. **External contact points**

- Themis Confidential Counselling Service for Sexual Harassment and Violence e.V. (only for cases of sexual harassment and sexualised violence)
  - Michaela Spandau, Legal Counsel for Sexual Harassment at the Baden-Württemberg Ministry of Science, Research and the Arts
  - Stuttgart Studierendenwerk (student union) counselling services
- (3) If a counselling service is concerned about a conflict of interest when conducting its work, it must inform the complaints office. A conflict of interest exists in particular if a liaison officer is responsible for management, support or teaching tasks. If this is the case, they are not allowed to be involved in the counselling service.
- (4) All staff with management, support and teaching responsibilities are responsible and obliged to encourage those affected to seek support from the counselling services. They are obliged to immediately inform the complaints office of the incident, the name of the alleged offender and the name of the person who feels discriminated against or harassed, in the event of any information or suspicion. They are also obliged to inform this person that the information has been passed on.

**§ 8**

**Complaints process**

- (1) The Filmakademie Baden-Württemberg has set up a complaints office.



This is responsible for complaints related to violations under § 3 of these guidelines. It is also the complaints office pursuant to § 13 (1) of the General Equal Treatment Act (AGG).

- (2) The complaints office is made up of two staff members. These individuals should be of different genders and may not act or have worked in the counselling service as defined in § 7 (1) and (2) of these guidelines. When initiating the process, the person lodging the complaint can indicate a preference as to which member of the complaints office they would like to deal with.
- (3) The complaints office is obliged to remain neutral.
- (4) The complaints office should be easily accessible in terms of location and how to initiate contact.

Contact:

FABW complaints office


[beschwerde@filmakademie.de](mailto:beschwerde@filmakademie.de)

The complaints office conducts the formal complaints process, insofar as no special competences are stipulated. The process must be conducted in an objective and prompt manner and documented in a complaint file. The complaints office staff are obliged to remain neutral.

## **§ 9**

### **Initiation of the complaints process**

- (1) The complaints process is initiated with a complaint submitted to the complaints office. All persons listed in § 1 are entitled to lodge a complaint.
- (2) The complaint must describe the incident perceived as being disadvantageous and discriminatory. When submitting the complaint, the complainant should enclose or name witnesses and other evidence,



if available. The complaint should state who else has already been informed about the incident and whether measures have been initiated.

- (3) The complaint must be submitted to the complaints office in text form or verbally to be recorded. The person making the complaint may seek support from a counselling service in accordance with § 7 (1) and (2) or another person they trust. The complaint must identify the person concerned. -It is not possible to lodge a complaint anonymously.
- (4) The complaints office informs the person making the complaint about their rights, obligations and the next steps. It provides information on existing support services in accordance with § 7 (1) and (2).
- (5) The complaints office informs the legal department.
  - that the complaint has been received
  - the identity of the complainant and the accused person, along with
  - recommendations for precautionary measures to be taken to protect the complainant
- (6) The legal department takes the necessary measures to protect the complainant and informs the management accordingly.

## **§ 10**

### **Determining the facts**

- (1) The complaints office clarifies the facts of the complaint at its own discretion using the means at its disposal. To this end, it must inform the accused of the main content of the complaint and give them the opportunity to comment and question the complainant and witnesses.
- (2) The questioning of all parties and witnesses should take place

separately. On request, the person lodging the complaint and the witnesses may be accompanied by a confidential counselling service in accordance with § 7 (3). The right to consult a legal adviser remains intact. All verbal interviews, statements and discussions are recorded and signed by the participants. The proceedings and content of the complaints process as well as the minutes of the interviews must be documented in a complaints file.

- (3) The complaints office then draws up a final report based on its investigations. This may also include proposals for measures that are not related to employment law. Such measures could include, for example, proposals for preventive and advanced training.
- (4) If proper determination and assessment of the facts of the complaint requires specialist expertise, or if one of the parties in the complaints process requests this in writing, the complaints office shall call upon the Themis Confidential Counselling Centre against Sexual Harassment and Violence e.V. The Themis Confidential Counselling Centre can use its expertise within the scope of its “mandate for sexual harassment and violence” to assist in the proper determination and assessment of the facts in cases of sexualised harassment and violence.
- (5) If employees and apprentices are involved, the final report is sent for further processing, otherwise to the legal department.

## **§ 11**

### **Legal examination, communication of findings, intervention**

- (1) The legal department at Filmakademie Baden-Württemberg shall review the final report from a legal perspective and prepare a statement in response. This statement should include the possibility of sanctions and/or propose appropriate sanctions. The legal department shall then forward the matter to the Managing Director or the

administrative management for a decision.

- (2) The Managing Director or the administrative management makes the final decision on the complaint. The complaints office communicates this to the complainant in writing. The decision must be substantiated.
- (3) If the complaint involves behaviour that can be classified as discrimination or harassment, the Managing Director and the Head of Administration will decide on suitable, necessary and appropriate measures. These should include both measures within the scope of the duty to act against the persons who have acted improperly, as well as measures to eliminate the discrimination, insofar as this is possible, appropriate and necessary. Furthermore, as part of the duty to take preventative action, measures should be implemented where possible, appropriate and necessary to avoid similar offences in the future. When deciding on suitable, necessary and appropriate measures, the management/administrative management generally follows the recommendations of the complaints office and the legal department but may deviate from these in exceptional cases.

## **§ 12**


### **Sanctions**

Acts of discrimination and unfavourable treatment within the meaning of these guidelines must be reviewed under employment law or regulatory law. They may also constitute criminal offences. In such cases, an assessment will be made as to whether the matter should be referred to the competent criminal prosecution authority in consultation with and with the consent of the person concerned.

## **§ 13**

### **Maintaining confidentiality when handling personal data**

The members of the counselling service and complaints office shall maintain strict



confidentiality with regard to the personal data to which they gain access or knowledge during the course of their work in accordance with Art. 4 (1), Art. 5 (1) f of the General Data Protection Regulation (GDPR).

**§ 14**  
**Coming into force**

These guidelines enter into force on 1 December 2023.



## Annex

### **Non-exhaustive overview of possible courses of action in cases of discrimination and harassment and non-exhaustive list of legal provisions under criminal law**

#### **1. Possible courses of action in accordance employment law if the allegations against an employee of the Filmakademie are proven:**

- a) employment law related implications for employees (notably warnings, reprimands, dismissal, termination of contract).

#### **2. Possible courses of action according to civil law provisions:**

- a) Banning the person from the premises (possibly for a limited period)
- b) Claims for damages arising from unauthorised action:
  - Violation of a person's general personal rights, § 823 (1) of the German Civil Code (BGB)
  - Immoral, intentional damage, § 826 of the German Civil Code (BGB)
  - Breach of official duty, § 839 of the German Civil Code (BGB),
  - Compensation, § 249 of the German Civil Code (BGB),
- c) Claims for compensation and damages against the employer, § 15 of the General Equal Treatment Act (AGG).
- d) Claims for injunctive relief and damages against the discriminating party, § 21 of the General Equal Treatment Act (AGG).

#### **3. Criminal law provisions:**

Different criminal laws may have been violated depending on the case in question



and the form of discrimination/harassment. The following may be included (not limited to):

(1) Offences against sexual self-determination according to § 174 et seq:

- Sexual assault, sexual coercion, rape, & 177
- Exhibitionist acts, § 183
- Causing a public nuisance, § 183 a
- § 184 distribution of pornographic content, § 184
- Sexual harassment, § 184 i
- Violation of private sphere caused by image recordings, § 184 k

(2) Offences against personal honour, e.g.

- insult, § 185
- Defamation, § 186
- Slander, § 187

(3) Offences against personal liberty

- Stalking, § 238
- Coercion, § 240
- Threat, § 241

(4) Offences against physical integrity, §§ 223 et seq. such as

- Assault, § 223
- Aggravated battery, § 224

**4. Possible courses of action in accordance with administrative law if the allegations against a Filmakademie employee are proven:**

- a) Disciplinary measures such as de-registration