



Complaints Procedure for Inappropriate Behaviour

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Department HRM and OSS

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Definitions

Saxion:	Saxion University of Applied Sciences Foundation
Supervisory Board:	the Supervisory Board (RVT) at Saxion is responsible for supervising the Executive Board as defined by law;
Executive Board:	the Executive Board (CvB) of Saxion is the institutional board as defined by law;
Director / Head of School:	The person in charge of a service or school;
Inappropriate behaviour:	discrimination, (sexual) harassment bullying, aggression, violence; <u>Discrimination</u> : unequal treatment of persons on the grounds of religion, belief, political affiliation, race, gender (sexual characteristics, gender identity, gender expression), nationality, sexual or relational orientation, marital status, age, disability or chronic illness; <u>Harassment</u> : behaviour that has the purpose or effect of violating the dignity of the person, in particular when an intimidating, hostile, offensive, humiliating or offensive situation is created; <u>Sexual harassment</u> : any form of verbal, non-verbal or physical behaviour with a sexual connotation with the aim or consequence of harming a person's dignity, especially when the consequence is a threatening, hostile, insulting, humiliating or hurtful situation is created; <u>Bullying</u> : all forms of deliberately initiated intimidating behaviour of a structural nature, by one or more persons directed against one person or group of persons who cannot defend themselves against this behaviour. An important element of bullying is the repetition of the conduct over time; <u>Aggression and violence</u> : when an employee or student is verbally or physically harassed, threatened or assaulted under circumstances which relate directly to the performing of work or study;

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Inappropriate Behaviour

Committee: a committee as described in article 1 of this Regulation.

Complaint: a complaint about inappropriate behaviour that is reported to the Inappropriate Behaviour Committee against a (fellow) student(s), Saxion employee, external person/party connected to Saxion;

Reporter: the person who submitted a complaint to the Inappropriate Behaviour Committee. The reporter is either a current or former employee, a current or former student. Reporter also means complainant;

Responder: the person about whose behaviour a complaint has been made to the confidential intermediary, or has been submitted to the Inappropriate Behaviour Committee;

Person involved: the person who has (relevant) information regarding the complaint;

Staff member: a person working under any title or performing work for Saxion;

Student: a person who is registered as a student at Saxion and as such makes use of Saxion's facilities, including external exam-candidates and course participants;

Expert: someone who by profession is particularly qualified to assess a complaint or give advice;

Confidential intermediary: the independent officer appointed by the Executive Board as defined in the regulations concerning confidential intermediaries;

VOG: Certificate of Conduct;

CAO: the Collective Labour Agreement for the higher education sector.

Working day: working day not being a Saturday, Sunday or public holiday or compulsory holiday recognised by law or by Collective Labour Agreement

1 Introduction

Saxion wants to be an organisation where everyone counts, where everyone experiences this, where they can be themselves and feel at home. It goes without saying that inappropriate behaviour will not be tolerated. Saxion wants to prevent all forms of inappropriate behaviour by facilitating discussion about appropriate and inappropriate behaviour, raising awareness on inappropriate behaviour and associated mechanisms, and sharing knowledge. Despite these efforts, individual students, course participants or staff may feel (sexually) harassed or discriminated against, or encounter aggressive behaviour or bullying. As such it is good to have regulations in place which establish the rights of individuals and provide a comprehensive overview of all internal legal channels in the event that the parties concerned fail to resolve the issue amicably. These regulations are given below.

2 Composition, duties and powers of the Inappropriate Behaviour Committee.

Article 1 Appointment and composition

1. Saxion has an Inappropriate Behaviour Committee, consisting of at least three members, of whom at least one is female and at least one is male. At least one member comes from outside Saxion.
2. The composition of the Inappropriate Behaviour Committee is such that it possesses sufficient knowledge and experience of the psychosocial and legal aspects of of inappropriate behaviour as well as the handling of complaints.
3. The Inappropriate Behaviour Committee shall elect a chairperson and a secretary from among its members.
4. A minute taker may be added to the Inappropriate Behaviour Committee at the committee's request. A request shall be submitted to the HRM Department.
5. Each member of the Inappropriate Behaviour Committee will have a deputy.
6. When a position in the Inappropriate Behaviour Committee becomes vacant, this will be made known through a job vacancy, internally (as far as possible) or externally.
7. The Executive Board appoints the members of the Inappropriate Behaviour Committee and their deputies for a period of three years. The members and deputy members may be re-appointed.
8. The appointment shall be agreed in writing.
9. Appointment as a member of the Inappropriate Behaviour Committee is subject to the following requirements:
 - a. being approachable and easy to talk to;
 - b. being able to deal with information confidentially;
 - c. having knowledge and experience in the field of individual assistance and support;
 - d. being a good listener;
 - e. being able to provide a Certificate of Conduct.

10. The Executive Board may terminate the appointment prematurely:
 - a. at the committee member's own request;
 - b. for no longer meeting the requirements for appointment;
 - c. due to dysfunctioning as a committee member;
 - d. for acts or omissions that seriously damage the trust to be placed in them;
 - e. due to termination of employment (in the case of internal committee members).
11. Members of the Executive Board, confidential intermediaries and the Ombudsperson cannot be appointed as member of the Inappropriate Behaviour Committee
12. The Executive Board shall provide the necessary facilities for the proper performance of duties, such as a reasonable scope of duties and a space that ensures confidentiality and anonymity. The Executive Board shall also establish an annual training budget for the Inappropriate Behaviour Committee so that they can increase their knowledge and skills needed for the job.
13. Twice a year, the HRM director will reflect with the Inappropriate Behaviour Committee on interpretation of the role.

Article 2 Challenges and recusals

1. A member of the Inappropriate Behaviour Committee may be challenged or may be excused if the committee member:
 - a. is involved in the complaint due to their job or is part of the organisational unit of the reporter or responder;
 - b. has a personal interest;
 - c. has a familial relationship with reporter or responder;
 - d. they have a prior involvement in matters relating to the complaint.
2. The other members of the Inappropriate Behaviour Committee will decide as promptly as possible whether to grant the challenge or recusal.

Article 3 Inappropriate Behaviour Committee duties and powers

1. The Inappropriate Behaviour Committee shall take due note of complaints, will investigate whether inappropriate behaviour within the meaning of these regulations has occurred, will advise the Executive Board on measures to be taken, if necessary, and may pass on recommendations to the Executive Board or the Supervisory Board insofar as the complaint relates to the Executive Board.
2. Whenever the Executive Board is mentioned in the following articles, this will involve the Supervisory Board insofar as the complaint concerns the Executive Board.
3. The Inappropriate Behaviour Committee may obtain information from the person(s) concerned.

The members of the Inappropriate Behaviour Committee may not be obstructed in their attempts to obtain information. No more information will be obtained than is necessary for the handling of the complaint.

4. If the Inappropriate Behaviour Committee sees reason to do so, it may suggest to the reporter and responder that they enter into dialogue. It may appoint a mediator for this purpose. If the dialogue does not lead to a satisfactory outcome, the procedure will continue at the Inappropriate Behaviour Committee.

3 Procedure of the Inappropriate Behaviour Committee

Article 4 Submitting a complaint

1. Before submitting a complaint to the Inappropriate Behaviour Committee, there is the option of talking to a confidential intermediary or the Ombudsperson. The regulations concerning confidential intermediaries and the Ombudsperson, respectively describe the roles these officers may fulfil before the reporter decides whether or not to submit a complaint.
2. A complaint will be submitted in writing or by email, with the reporter being identifiable.
3. Where possible, a complaint shall consist of a written description of the date, time, circumstances, nature, content and place of the conduct or conduct complained of, as well as the identity of the responder. If applicable, others involved will also be indicated, evidence provided and any steps taken will be named.
4. After the complaint has been received by the Inappropriate Behaviour Committee, the reporter will immediately be informed of receipt by the Inappropriate Behaviour Committee Secretary and will be informed of the course of the procedure.
5. The Inappropriate Behaviour Committee shall notify the Executive Board (or the Supervisory Board insofar as the complaint relates to conduct by the Executive Board) of the complaint submitted by the reporter against the responder.
6. The Executive Board will inform the director, insofar as the director is not the responder, that a complaint has been submitted. This is done to ensure due care for both reporter and responder.
7. The Supervisory Board, the Executive Board or the director concerned has the option of requesting their HR officer to provide support in caring for the reporter and responder;
8. During the investigation, the Inappropriate Behaviour Committee will keep the Executive Board informed of the procedure's progress. The Executive Board shall inform the director of the progress.
9. During the investigation, no substantive information will be shared with the Executive Board unless necessary (e.g. if the inappropriate behaviour continues during the investigation) this is because the Inappropriate Behaviour Committee can advise and impose temporary measures if need be.

Article 5 Immediate settlement and opposition

1. The chairman of the Inappropriate Conduct Committee, in consultation with the secretary of the Inappropriate Behaviour Committee, shall determine whether a submitted

complaint meets the requirements mentioned in Article 4 paragraph 3 of these regulations and, if necessary, gives the reporter the opportunity to remedy any shortcomings.

2. The Inappropriate Behaviour Committee may dismiss the complaint immediately, without hearing the parties involved, if it is of the opinion that:
 - a. the Inappropriate Behaviour Committee is manifestly incompetent (unauthorised);
 - b. it is obvious that the complaint is inadmissible.
3. The Inappropriate Behaviour Committee shall notify the reporter in writing of its decision as in paragraph 2 of this article.
4. The reporter may lodge an objection to the decision, as described in paragraph 3 of this article, with the Inappropriate Behaviour Committee within 14 days of the day the decision was sent. The objection will be made using a further explanation of the objection.
5. Following the reporter's objection, the reporter is given the opportunity to be heard by the Inappropriate Behaviour Committee to explain the objection.
6. After hearing or not hearing the reporter in case of objection, the Inappropriate Behaviour Committee shall take a final decision and notify the reporter.

Article 6 Provisional or interim measure

1. The reporter may ask the Inappropriate Behaviour Committee to impose an interim provision for the duration of the investigation of the complaint. The Inappropriate Behaviour Committee will consider this request and ask the Executive Board to make a decision on it.
2. The Inappropriate Behaviour Committee may on its own initiative, advise the Executive Board to take a provisional or interim measure insofar as this is not requested by the reporter. The Inappropriate Behaviour Committee shall inform the reporter of its advice.
3. After receiving the request or advice to take a provisional measure, the Executive Board, in consultation with the director, will decide whether and if so what provisional measure should be taken. The parties will be notified in writing by the director.
4. The provisional measure may be lifted or modified by the Executive Board in consultation with the director, during the investigation.
5. In any case, the provisional measure lapses once the Inappropriate Behaviour Committee has made its final decision.

Article 7 Procedure for handling complaints

Written procedure

1. The complaint will be sent by the committee to the responder after which a written process will take place first. This is as follows:
 - a. responder is given the opportunity to submit a written defence. The aforementioned defence must be provided to the Inappropriate Behaviour Committee within 10 days of receipt of the written complaint;
 - b. subsequently, the reporter is given the opportunity to reply. This response must reach the Inappropriate Behaviour Committee within 10 working days of receiving the responder 's defence.
 - c. subsequently the responder is given the opportunity to reply to the reporter's response. Again, this is subject to a deadline of 10 working days.

Oral procedure

1. After the written procedure, the reporter and responder are invited to a hearing (an in-person oral hearing) in which the complaint or defence can again be explained.
2. The Inappropriate Behaviour Committee hears the reporter and the responder at the hearing. Both parties are expected to attend. The committee hears reporter and responder separately. Both reporter and responder may be assisted in this by an adviser/counsellor provided with a written authorisation or an applicable confidential intermediary (not being a Saxion confidential intermediary).
3. The Inappropriate Behaviour Committee may also:
 - a. hear other parties involved;
 - b. hear experts.The hearing of the aforementioned persons shall take place by means of a hearing. The Inappropriate Behaviour Committee may have those involved heard by one or two members of the Inappropriate Conduct Committee or by the entire Inappropriate Conduct Committee.
4. An audio recording will be made of the hearing, which will only be used to make a written report of the hearing. The report will be signed in agreement by the person heard. It is also possible to sign the report as seen, with additional comments included as an addendum to the report. After signing the report, the recordings will be deleted.
5. At the end of the handling of the complaint by the Inappropriate Behaviour Committee, the reporter and the responder will receive the reports of all hearings. At that point, the recordings will be deleted.

6. During the handling of the complaint, the committee may invite the reporter or responder to be heard additionally. Report(s) shall also be made of such hearing(s). The Inappropriate Behaviour Committee may not share reports made earlier in the hearing process before the conclusion of the process. Only at the end of the investigation will the reports of all hearings be shared with the reporter and the responder. At that point, the responder will be given the opportunity to give a final response.
7. During the handling of the complaint, the secretary of the Inappropriate Behaviour Committee keeps both reporter and responder informed of the progress of the procedure.
8. Should it be necessary that the Inappropriate Behaviour Committee has access to (confidential) documents in the course of its investigation, the secretary of the Inappropriate Behaviour Committee will seek permission from the Executive Board.
9. If during the processing of the complaint, the complaint is withdrawn, the Inappropriate Behaviour Committee shall reconsider whether or not to continue the investigation.
10. At the end of the handling of the complaint and before the conclusion and advice is written by the Inappropriate Behaviour Committee behaviour, the responder is given one more opportunity to respond, either in writing or orally.

Article 8 Conclusions and advice

1. The Inappropriate Behaviour Committee writes its conclusion and advice within 10 days of completing the investigation.
2. Its conclusion is substantiated and can be any one of the following:
 - a. a decision of not being authorised from the Inappropriate Behaviour Committee;
 - b. a decision that the complaint is inadmissible.
 - c. a decision that the complaint is without foundation.
 - d. a decision that the complaint is partially or entirely legitimate.
3. It is also possible that the Inappropriate Behaviour Committee may not be able to reach a conclusion. In this case, the Inappropriate Behaviour Committee will describe why it cannot reach a conclusion and may prescribe some advice to the Executive Board.
4. If the conclusion involves a decision as referred to in paragraph 2 (a), (b) or (c), then the conclusion will only be notified to the reporter, the responder and the Executive Board. In this case, the Inappropriate Behaviour Committee may make recommendations to the Executive Board.
5. If the conclusion is wholly or partly well-founded, the Inappropriate Behaviour Committee issues a reasoned recommendation to the Executive Board.
6. The Inappropriate Behaviour Committee may advise the Executive Board to take certain measures. These may be measures specifically aimed at the responder (employment or other measures) or other measures that deal with the issue of personal safety.
7. The conclusion and its recommendations or advice are sent by the secretary of the Inappropriate Behaviour Committee to the Executive Board, the reporter and the responder.

8. The Inappropriate Behaviour Committee strives for unanimity. In case the Inappropriate Behaviour Committee is unable to reach a unanimous conclusion and advice/recommendation, the decision will be taken by majority vote.

Article 9 Decision

1. With due observance of the provisions in sections P and Q of the CAO-HBO and article 7.57h WHW, the Executive Board assesses the advice it has been given and takes a substantiated decision as soon as possible, and in any case within 15 days.
2. Making the decision will be done by the Executive Board in consultation with the director, insofar as the director is not the responder. To this end, the Executive Board will share the decision and the advice and/or recommendations with the director which can be viewed in full confidentiality by the director. If necessary, they may be assisted by his or her HR adviser. The Executive Board is also authorised to seek legal advice.
3. The director will proceed to implement the decision.
4. An interview with the responder always takes place before a decision is made. This conversation will take place between the responder and the director in the possible presence of the Executive Board.
5. If it is important to the Executive Board to receive further information about the complaint or information obtained during the handling of the complaint from the Inappropriate Behaviour Committee, before making a decision, it may request the secretary of the Inappropriate Behaviour Committee to provide this.
6. The Executive Board shall communicate the decision to the reporter, the responder and Inappropriate Behaviour Committee as soon as possible, in any case within 15 days.
7. A decision of the Executive Board will be included in the responder's personnel file.

Article 10 Appeals and objections

1. In accordance with the WHW and the CAO-HBO, employees may appeal against a decision of the Executive Board to the Appeals Committee insofar as a disciplinary measure has been taken in accordance with the CAO-HBO.
2. Pursuant to the provisions in the Students' Charter and article 7.63a WHW, students and external candidates have the right to lodge an appeal against an Executive Board decision as described in the preceding article with the Disputes Arbitration Committee.

Article 11 Confidentiality and secrecy

All parties involved in a complaints procedure should treat any information shared with them in the course of the procedure as confidential and are bound to secrecy, except insofar as any legal regulation or these rules, obliges them to disclose such information or the necessity to disclose arises from their professional duty.

Article 12 Archives and annual report

The Inappropriate Behaviour Committee keeps a record of complaints and their handling, for the purpose of the archives of the Inappropriate Behaviour Committee.

Only members of the Inappropriate Behaviour Committee have access to this archive. All records pertaining to a complaint are destroyed after five years.

In addition, the Inappropriate Behaviour Committee keeps an anonymised record of the nature and scope of the complaints handled by the Inappropriate Behaviour Committee. This information is included in either the annual report of the Inappropriate Behaviour Committee or the annual report of the Complaints and Disputes Office for the benefit of the Executive Board. The annual report is a public document.

Article 13 Disputes

In the event of disputes concerning the interpretation of these rules or in the event of matters not covered by these regulations, the chairman shall decide the matter, in consultation with the secretary of the Inappropriate Behaviour Committee, after having heard the other members of the Inappropriate Behaviour Committee.

Article 14 Final provisions

These rules may be cited as Saxion Complaints Procedure for Inappropriate Behaviour 2023

These rules were adopted by the Executive Board on 5 July 2023

These rules come into force on 1 September 2023

These rules will be evaluated two years after coming into force by the Inappropriate Behaviour Committee, the confidential intermediaries and the HRM and OSS directors.