

Fighting Sexual Harassment at Karlsruhe Institute of Technology (KIT)

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Preface

Dear Staff and Members of KIT,

A trusting and respectful cooperation and a positive working and learning atmosphere are matter-of-course and indispensable concerns and leitmotifs for all KIT staff and students. The KIT is committed to respecting the personal integrity and dignity of all KIT staff and members and promotes equal cooperation between men and women in all areas of research, study and teaching, innovation and administration. Everyone who studies or works at KIT has the right to do so without any discrimination or harassment.

The KIT does not tolerate any form of sexual harassment at the workplace or at university. Sexual harassment violates boundaries and encroaches upon the dignity, the right of personality, and the right to sexual self-determination of the person concerned. Sexual harassment creates a climate of intimidation and degradation, which can damage the joy of and fitness for work, including the health of those affected.

This guide is intended to provide information and raise awareness. It is meant to help sharpen everyone's understanding of the fact that each one of us has a responsibility for not tolerating sexual discrimination and sexual harassment in our institution, but is rather obligated to view them as violations of the law and to put them to an end. In addition, this guide is intended to offer concrete assistance to those affected and, on the other hand, to provide fellow students, colleagues of those affected and, in particular, managers with a concept with which they can intervene when aware of sexual harassment.

I. Definition

Sexual harassment always is subject to personal judgement and interpretation, but there are clear definitions.

The relevant legal definition in § 3 Paragraph 4 of the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz - AGG) states that:

Sexual harassment shall be deemed to be discrimination when an unwanted conduct of a sexual nature, including unwanted sexual acts and requests to carry out sexual acts, physical contact of a sexual nature, comments of a sexual nature, as well as the unwanted showing or public exhibition of pornographic images, takes place with the purpose or effect of violating the dignity of the person concerned, in particular where it creates an intimidating, hostile, degrading, humiliating or offensive environment.

Sexual harassment can manifest itself in many ways. It can be both verbal and physical in nature. It is characterized by the fact that, not necessarily intentionally, it is carried out against the will of the individuals concerned and is degrading for them

Sexual harassment may include:

- insinuating remarks or jokes about the person, his or her body, behavior or private life,
- showing, visibly attaching or depositing, but also distributing (e.g. by email) sexist and pornographic representations, e.g. calendars, screensavers...,
- harassment by telephone, letter, email, SMS with sexual allusions,
- provocative, sexually degrading gestures and/or looks,
- unwanted advances and physical contact, e.g. accidental touching when walking past each other, standing close behind the person...,
- unwanted solicitation or coercion for sexual acts; the promise of professional or academic advantages in the case of sexual concession, threat of professional or academic disadvantages in the case of refusal

The personal perception and personal tolerance limits vary. Each affected person decides for himself or herself which behavior he or she wishes to adopt. Whether and to what extent a person feels sexually harassed, depends solely on his or her sensations.

II. Guidelines for Persons Concerned and Third Parties

Sexual harassment of any kind at KIT is prohibited and will not be tolerated.

For those affected by sexual harassment, it is first and foremost important to take their own feelings seriously and to consider their own limits and further reactions. The ways and approaches described below are to point out possibilities and strategies to change something in an occurred situation of harassment.

1. Informal Opportunities to Act for Persons Concerned

Defensive resistance is a common strategy for affected persons. Such resistance can be expressed by "doing nothing", e.g. by ignoring, avoiding or joking with the alleged harasser as a reaction to the harassment. However, such passive behavior is rarely successful and a much greater chance to stop the harassment is an active response.

Active response may already consist of making one's own rejection unmistakably clear, thus showing that the behavior of the other person is not desired. This can be done, e.g. by clear words like "none of that" or "stop that", if possible in the presence of a witness or witnesses. This can be done in conversation and/or in writing. The accusation of harassment should be made as objectively as possible while at the same time announcing that the responsible contact person or superior will be informed or that further steps will be taken in the event of a repeated offence. Of course, the responsible contact persons and/or the superior can also be informed without prior notice. The incident should then be put down in writing to allow an as accurate as possible tracing of the experienced situation. The "when, where, how, and by whom" should be documented, and the names of possible witnesses should be written down. Any evidence such as emails or the like, or letters sent to the alleged harasser should be kept in a safe place.

In addition, it is always helpful to seek a conversation with a trusted person, e.g. with one's spouse or partner, with a relative or friend or even with one's fellow students or colleagues. It cannot be ruled out that the harassment is not an isolated case and it is precisely for this reason that a discussion with the latter group of persons may reveal further incidents which may have been hidden so far.

2. Options for Action by Third Parties

As a witness to sexual harassment, you should never remain silent or look away. You should first of all offer the affected person support both emotionally and practically, e.g. by directly addressing the alleged harasser in the concrete case, or by offering to accompany the concerned person to meetings or appointments. The affected person can also be encouraged not to put up with everything and be offered the opportunity to be available as a witness.

Superiors are obliged to investigate concrete evidence of sexual harassment and act immediately (see Section 3 b)).

Notwithstanding these possibilities, it is possible, depending on the form and severity of the harassment, to take legal action against the alleged harasser, e.g. in the form of a criminal complaint. It is advisable, however, to seek advice beforehand, e.g. from the contact person for questions relating to sexual harassment.

3. Procedure at the KIT

The KIT has appointed a contact person¹ for its staff and members and a contact person for questions related to sexual harassment. The contact person is not bound by instructions and may not pass on or otherwise exploit information about the personal and material circumstances of the person concerned to third parties without his/her consent. The person concerned can also contact the Compliance Officer (also anonymously). The latter is obliged to investigate the allegations.

Students and matriculated doctoral students can also contact the Equal Opportunities Officer of the students' union executive committee AStA². This body is also bound to secrecy and may only pass on information with the consent of the person concerned. In addition, the line manager, the Staff Council and the PSE staff are available as contact persons who can take further steps ex officio. As far as steps pursuant to labor law, public services law and criminal law are taken, the respective person responsible at the KIT will keep the circle of those informed as small as possible. It goes without saying that the person concerned will be informed of the relevant measures beforehand.

On the other hand, the person concerned must not be obliged to secrecy at any time after sexual harassment.

a) Contacting the Contact Person in the Case of Questions Relating to Sexual Harassment

It is strongly recommended to first talk to the contact person for questions relating to sexual harassment.

The internal and external contact persons can be found at:

http://www.chg.kit.edu/english/sexual_harassment.php

In the confidential conversation with the contact person, the incident and the further procedure are discussed. Depending on the wishes of the person concerned and the accusation, this conversation is documented and, with the support of the contact person, the following possibilities of clarification are considered:

- Conversation with the triggering/acting person and, if necessary, with other persons
- Letter to the triggering/acting person
- Round table, e.g. mediation and possible involvement of further persons

¹ This function is performed by the Equal Opportunities Officer:

http://www.chg.kit.edu/english/sexual_harassment.php

² <https://www.asta-kit.de/asta/referate/chancengleichheit>

- Involvement of the line manager or the next higher management level with possible consequences under labor law for the triggering/acting person

As a first step, it can be useful to ask the alleged harasser to talk to the contact person, if necessary in the presence of the person concerned, or to write a letter to the alleged harasser and document this procedure and its result. In addition, the alleged harasser may be requested to comment on the accusations, to apologize, and to stop the harassment within a specified time.

If it turns out that the conversation or the letter do not lead to success and that there may even be a repetition of the harassment, the Human Resources service unit (PSE) may be contacted and consulted in agreement with the person concerned, especially if steps relating to the law governing personal resources are considered and must be checked. Furthermore, a “round table” can be convened. In addition to the person concerned, the alleged harasser and the contact person, a representative each of PSE, the Staff Council, and the Legal Affairs service unit, and, in the case of students, the AStA Equal Opportunities Officer and, if necessary, an external expert or a person trusted by the person concerned and, respectively, by the alleged harasser, may be considered as participants in this round table. The aim of the round table is to clarify the incident in a conciliating conversation and to determine the further course of action. The allegations made, the opinions of the respective persons, the round-table discussion, and the agreements reached therein are documented.

If the round-table discussion reaches the conclusion that there is a need for further action and that steps under labor law or criminal law must be taken, the line manager or, if the latter is the alleged harasser, the next higher manager, will be informed on the incident via the contact person by submitting the respective documentation and a recommendation with regard to further action. The same applies if after the round-table discussion, the alleged harasser does not stop his/her harassing behavior or does not adhere to the agreements made.

The line manager or the next higher manager examines the incident based on the presented documents and recommendations of the round table and hears the points of view of the person affected, the alleged harasser and, if necessary, other persons again in a formal conversation, if possible with the participation of PSE.

b) Contacting Superiors/Executive Managers

The person concerned is at liberty to contact his/her line manager or any other person at management level at any time. The superiors and executive managers have the duty under labor law to take appropriate measures to protect the KIT staff and members from sexual harassment, to investigate concrete evidence of sexual harassment, and to act accordingly. This means that a complaint must be examined and appropriate measures must be taken to immediately stop the continuation of an identified harassment. The complaint, whether or not it leads to further action, shall not result in discrimination against the person concerned. PSE must be informed and involved in cases relevant to labor law.

Measures to be taken against the harasser by PSE or by the AStA may include:

In the case of employees covered by collective agreements:

- Written warning
- Move to another workplace
- Relocation
- Dismissal

In the case of officials:

- Disciplinary procedure
- Reprimand
- Punishment by a fine
- Pay cut
- Move to another workplace
- Relocation to a position in the same career bracket but with lower final basic pay (reduction in grade)
- Secondment
- Dismissal
- Reduction/denial of retirement pension

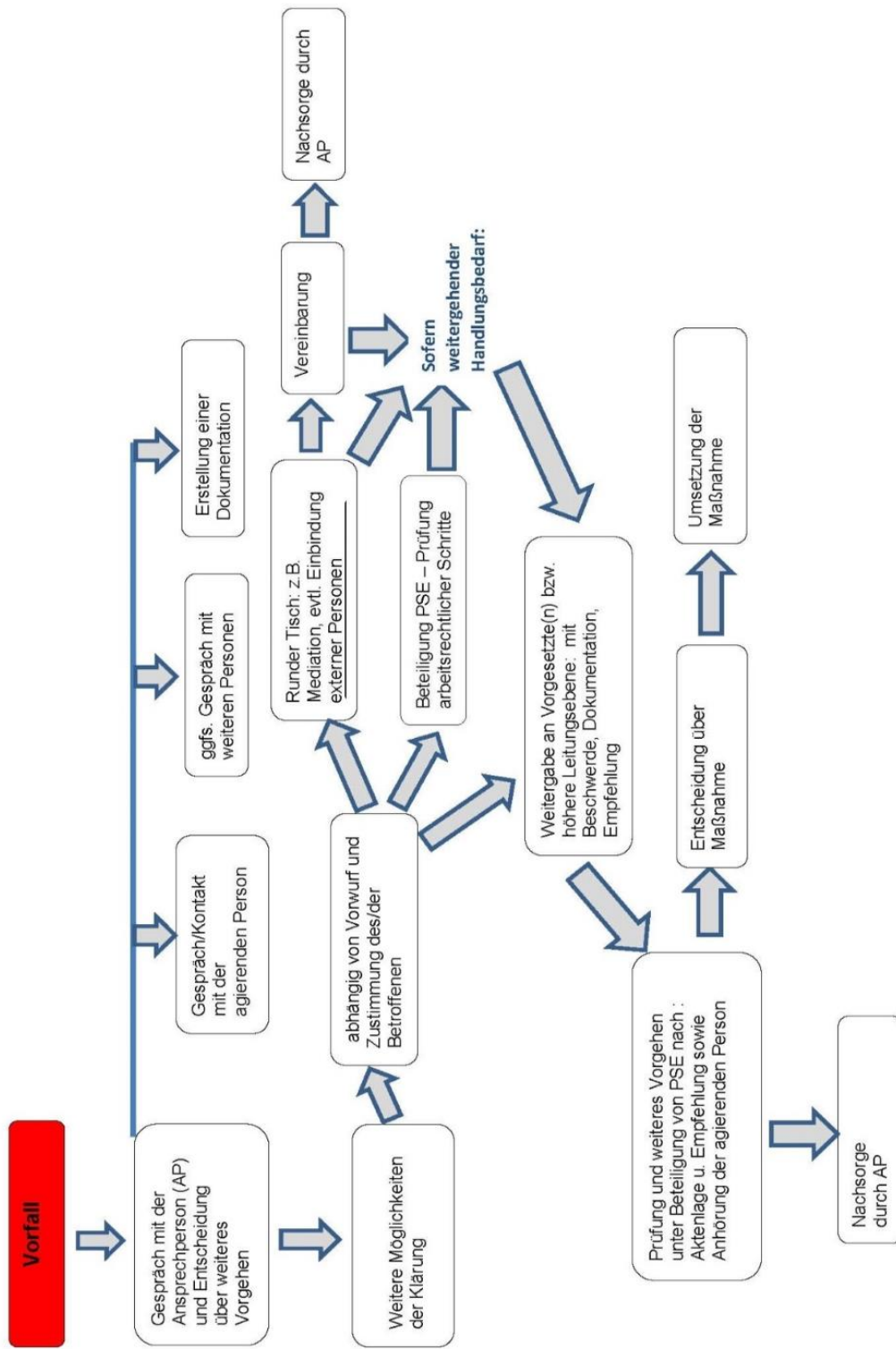
In the case of students

- Exclusion from courses
- Exclusion from the use of university facilities
- Withdrawal of EDP usage authorization
- Removal from the register of students and setting of a deadline of up to two years within which renewed enrollment at a university is excluded.

In serious cases, the respective entity, department or service unit will press criminal charges against the harasser. It goes without saying that the person concerned will be heard before any steps are taken which could lead to prosecution or judicial proceedings where he or she would have to testify as a witness.

If, in an undoubted case of sexual harassment, the line manager/executive manager remains inactive despite having been informed or if he or she takes only inadequate measures, the person concerned may, for his/her own protection, stay away from his/her work without losing his/her pay or remuneration. The prerequisite for this, however, is that the person concerned cannot reasonably be expected to continue working at the same workplace because of the risk of repetition or the seriousness of the offence. The superior must be informed of this intention in good time. PSE must be consulted before taking such a decision.

Verfahrensschema zu II. 3. a)



Schematic Diagram for II. 3a)

Incident				
Conversation with contact person (CP) and decision on further action	Conversation/contact with the harasser	If necessary, conversation with other persons	Preparation of documentation	
Further possibilities of clarification	Depending on the allegation and the consent of the person concerned	<p>Round table: e.g. mediation, integration of external persons</p> <p>Participation of PSE – consideration of labor law steps</p> <p>Forwarding to superior or executive manager with complaint, documentation, recommendation</p>	<p>Agreement</p> <p>If there is a need for further action</p>	Follow-up support by CP
Examination and further action with participation of PSE based on the presented documents and recommendations, and hearing of the harasser	Decision on measure to be taken	Implementation of measure		
Follow-up support by CP				

III. Overview of Laws

- Basic Law (Grundgesetz - GG): Art. 1 and 2
- General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz - AGG): § 1 - § 3, §§ 12 - 14, § 22
- Baden-Württemberg State University Law (Baden-Württembergisches Landeshochschulgesetz - LHG): §§ 4, 62
- Criminal Code (Strafgesetzbuch - StGB): § 185, § 238
- Protection against Violence Act (Gewaltschutzgesetz - GewSchG): § 1