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# Regulations for the protection of personal integrity (SPIR)<sup>1</sup>

*The University Board of Bern University of Applied Sciences,*

pursuant to Article 33 Paragraph 1 Letter I of the Act of 19 June 2003 concerning Bern University of Applied Sciences (FaG<sup>2</sup>),

*has adopted the following provisions:*

## 1. Object and scope

Object

**Art. 1** <sup>1</sup> The present regulations are intended to prevent violations of personal integrity and ensure that studying and working at Bern University of Applied Sciences remains free from such infringements.

<sup>2</sup> They lay down the principles of conduct, structure and procedures upheld by Bern University of Applied Sciences in order to prevent and appropriately respond to any violations of personal integrity.

<sup>3</sup> These regulations have been coordinated with Bern University of Applied Sciences' Code of Conduct and confer binding force on the principles outlined therein with respect to unacceptable forms of conduct.

Scope of application

**Art. 2** <sup>1</sup> The present regulations are valid for all employees<sup>3</sup> and students of Bern University of Applied Sciences.

<sup>2</sup> They apply to circumstances and incidents occurring within the university context. Harmful conduct by employees and students of Bern University of Applied Sciences which takes place outside of the University's premises also falls within the scope of these regulations if it affects studies or work at Bern University of Applied Sciences.

<sup>3</sup> The present regulations further apply *mutatis mutandis* to people using or visiting amenities belonging to Bern University of Applied Sciences. This group includes exchange students, auditors, academic visitors, lecturers and participants in continuing-education programmes and events.

<sup>4</sup> The regulations do not apply to

- a* rulings and other forms of conduct whose investigation is governed by other legal processes;
- b* general and abstract provisions, such as regulations, guidelines, information sheets, directives.

<sup>5</sup> Are not covered by these regulations types of violations other than those listed in chapter 2. The Regulations on Scientific Integrity at Bern University of Applied Sciences (WissIR) of 16 November 2022 apply to scientific misconduct and plagiarism. In the event of malpractice as per

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<sup>1</sup> This document is a translation and is not legally binding; the original German version prevails.

<sup>2</sup> BSG 435.411.

<sup>3</sup> As per the legislation guidelines of the Canton of Bern, these regulations use binary or gender-neutral terms. Terms used to denote persons refer to all genders.



Article 41 of the Cantonal Financial Control Act of 7 March 2022, the financial authority is the reporting office (“whistleblowing office”) for employees.

## 2. Violations of personal integrity

Basic principles	<b>Art. 3</b> Bern University of Applied Sciences does not tolerate any violations of personal integrity, regardless of their severity.
Definition	<b>Art. 4</b> All forms of discrimination, sexual harassment, bullying, threats and violence are considered violations of personal integrity.
Discrimination	<b>Art. 5</b> Discrimination refers to utterances or actions that seek to degrade or disadvantage a person for any of the following characteristics or for no material reason: <i>a</i> sex, gender identity, sexual orientation, <i>b</i> age, <i>c</i> ethnicity, origin, skin colour, <i>d</i> language, <i>e</i> social position, professional status, education, <i>f</i> way of life, <i>g</i> religious, ideological or political convictions, <i>h</i> physical, mental or psychological characteristics.
Sexual harassment	<b>Art. 6</b> <sup>1</sup> Sexual harassment is any conduct with a sexual connotation that is unwanted by the recipient or degrades persons on the basis of their sex.  <sup>2</sup> These include: <i>a</i> lewd, demeaning or disdainful comments or jokes; <i>b</i> display or distribution of sexist, especially pornographic, material; <i>c</i> sexual assault, the soliciting of sexual acts, unwelcome physical contact and obtrusive behaviour; <i>d</i> sexual advances which exploit a relationship of dependency or which are made with a promise of advantages or threat of disadvantages; <i>e</i> sexual acts and behaviours that are punishable under law.  <sup>3</sup> Sexual harassment manifests itself particularly in the form of words, gestures and actions.
Workplace bullying	<b>Art. 7</b> Workplace bullying describes conduct that repeatedly and systematically persecutes, degrades and, in doing so, isolates or ostracises a person or persons over an extended period of time. It is sometimes done with the intention of driving the target out of their position or their degree programme. Individual problematic forms of conduct include deliberate disparaging, exclusion, denial of information, abusive accusations and denigration.
Threats and violence	<b>Art. 8</b> Threats and violence are forms of conduct that harm others psychologically or physically or express an intention to do so. As well as physical attacks and threats, this includes verbal and non-verbal affronts which exceed normal work-related and interpersonal conflict, denigration and insults. Deliberate and persistent pursuit of a person (‘stalking’) also belongs in this category.



### 3. Prevention and general support

#### Preventative measures

**Art. 9** <sup>1</sup> Bern University of Applied Sciences regularly uses suitable communication channels to remind its members that violations of personal integrity will not be tolerated.

<sup>2</sup> It makes all employees and students aware of the principles of conduct, types of integrity violations, possible courses of action and responsibilities, as laid out in its Code of Conduct and the present regulations, and encourages them to conduct themselves accordingly.

<sup>3</sup> Bern University of Applied Sciences offers training measures that clarify the role perceptions of everyone involved and helps attendees develop an understanding of how to protect their personal integrity.

<sup>4</sup> All persons who perform duties in accordance with the present regulations have the necessary expertise and skills and receive relevant training.

#### General support

**Art. 10** <sup>1</sup> Bern University of Applied Sciences takes reports of violations of personal integrity seriously and ensures that all reported incidents are adequately investigated.

<sup>2</sup> It supports people who seek help or are otherwise affected and refers them to the appropriate contact persons, ensuring that confidential support services are available.

<sup>3</sup> It offers target-group-appropriate information and tools, i.e. by clarifying procedures and sharing the contact details and responsibilities of relevant contact points.

<sup>4</sup> It protects persons who report a violation of personal integrity, or are involved in any clarification or investigation procedures, from reprisals and disadvantages.

#### Employee and student conduct

**Art. 11** <sup>1</sup> Employees and students of Bern University of Applied Sciences conduct themselves in a way which contributes to a pleasant atmosphere free from harassment and discrimination, behave considerately and respect each other's dignity and integrity.

<sup>2</sup> Employees and students of Bern University of Applied Sciences who witness a violation of personal integrity within the scope of their work or studies at Bern University of Applied Sciences are asked to approach the victim and offer support. This does not affect the obligations of the employees of Bern University of Applied Sciences as laid out in Article 16.

#### Support from management and teaching staff

**Art. 12** Management and teaching staff

- a* promote a culture of working, learning and collaboration that is free from harassment and discrimination.
- b* participate in information and awareness measures and incorporate corresponding content into their teaching;
- c* ensure that staff and students within their sphere of responsibility comply with the present regulations.

#### 4. Options available to affected persons, accused persons and third parties

##### Direct approach

**Art. 13** <sup>1</sup> Persons who feel that their personal integrity has been violated ('affected persons') should, if they feel able to do so, communicate to the offending party that they feel hurt and do not tolerate their behaviour.

<sup>2</sup> Anyone who witnesses a violation of another's personal integrity can point out to the offending party what they observed. They should bear in mind, however, that it is their subjective perception and no comprehensive investigation has taken place yet.

##### Support services

**Art. 14** <sup>1</sup> The following support services are available either individually or cumulatively:

- a* the Universities of Bern Counselling Centre: external, confidential support, advice and (if required) active guidance;
- b* Counselling services of the Cantonal Personnel Office: external, confidential support and advice for employees;
- c* other external counselling services: various options available; any costs must be borne by the service recipient;
- d* managers, teachers: further steps as per Article 23;
- e* HR consultants: contact persons for employees;
- f* Investigative Service as per Article 20: investigations with respect to the implementation of measures and sanctions.

<sup>2</sup> The services laid out in Paragraph 1 Letters a, b, d, e and f are free of charge.

<sup>3</sup> Only the affected person and the accused person may submit a report to the Investigative Service. This does not affect the reporting power of managers and HR consultants as laid out in Article 16.

<sup>4</sup> When a report is submitted to a manager, member of teaching staff, HR consultant or the Investigative Service, the respective recipient of the report is obliged to take action as per Article 16. Confidentiality and obligations to act are governed by Articles 16 and 17.

##### Further legal steps

**Art. 15** The relevant entities reserve the right to take further legal steps, such as reporting an offence to the authorities.

#### 5. Responsibility and obligations

##### 5.1. General

##### Obligation to take action

**Art. 16** <sup>1</sup> Employees of Bern University of Applied Sciences who witness a potential violation of personal integrity at work are obliged to take action as laid out in Paragraphs 2 and 3.

<sup>2</sup> In cases where no severe violation of personal integrity has taken place, managers shall endeavour to de-escalate and play a conciliatory role. If the Investigative Service has been involved as per Article 20, any actions taken by a manager must be directed by or coordinated with said Investigative Committee. If the manager is personally involved in the incident or biased towards one party, the case must be passed on



to the next higher-ranking manager. Incidents which call for involvement of the Investigative Service, especially ones in which a severe violation of personal integrity has taken place, are to be reported to the Investigative Service once the affected person has been heard. HR consultants can also report directly to the Investigative Service, if they wish to, after consultation with the involved managers.

<sup>3</sup> Other employees must report incidents to the relevant manager.

#### Confidentiality

**Art. 17** <sup>1</sup> Employees of Bern University of Applied Sciences are bound by a duty of confidentiality as per the employment legislation. They must not disclose confidentially received information without explicit consent from the involved persons unless they are obliged to do so by law and the present regulations.

<sup>2</sup> Persons questioned within the scope of proceedings as per Chapter 6 are released from their duty of confidentiality towards the Investigative Service.

<sup>3</sup> For persons who are bound by the obligation of professional secrecy, Article 171 of the Swiss Criminal Procedure Code<sup>4</sup> applies *mutatis mutandis*.

<sup>4</sup> External persons invited for assistance are contractually obliged to maintain confidentiality as per Paragraph 1.

#### Recusal

**Art. 18** Persons with responsibilities as laid out in the present regulations shall recuse themselves if they are biased in the matter.

#### Relationship to other proceedings

**Art. 19** Persons with responsibilities as laid out in the present regulations shall ensure that their actions do not impede other proceedings, e.g. criminal or civil proceedings. If the pendency of such proceedings is known, all investigative steps are to be coordinated with the other procedural managements.

## 5.2. Investigative Service and Investigative Committee

#### Investigative Service

**Art. 20** <sup>1</sup> The Investigative Service consists of

- a* the head and another representative of the Legal Service;
- b* 1-2 representatives of the Specialist Service for Equal Opportunities;
- c* 1-2 representatives of the Office of the Vice-President Teaching;
- d* 1-2 representatives of the Human Resources.

<sup>2</sup> The head of the Legal Service shall act as chairperson. Other than that, the Investigative Service constitutes itself independently.

<sup>3</sup> The Investigative Service

- a* receives reports about violations of personal integrity;
- b* upon request, provides information about options for addressing violations of personal integrity or corresponding accusations;
- c* answers questions about the procedure and approach taken by the Investigative Service;
- d* documents its activities and submits an anonymised report to the President regularly and at least once a year. The report must at least reveal the number of requests for information received, the type of

<sup>4</sup> Criminal Procedure Code (*Strafprozessordnung*), StPO, SR 312.

cases investigated, their outcome, and the resources invested by the Investigative Service. It may further contain recommendations for optimising prevention and measures taken against violations of personal integrity at Bern University of Applied Sciences.

#### Investigative Committee

**Art. 21** <sup>1</sup> Reports are processed by an Investigative Committee suitably composed for the specific situation. A representative of the Legal Service shall act as chairperson of that committee. Depending on the required expertise, the committee shall include a representative of each organisational unit referred to in Article 20 Paragraph 1.20 The determination of the composition of the committee and the conduct of the proceedings shall be carried out by the chairperson. Diversity must be taken into consideration.

<sup>2</sup> The organisational units listed in Article 20 Paragraph 1 may appoint additional persons to the Investigative Committee if all representatives of an organisational unit are unavailable or in order to ensure sufficient diversity in the committee.

<sup>3</sup> The committee adopts decisions by a simple majority; in the event of a tie, the chairperson shall have a casting vote. Other than that, the committee constitutes itself independently.

<sup>4</sup> The chairperson may delegate the duty of undertaking procedural steps, specifically the questioning of parties, to other committee members. He or she may consult other experts or request information from representatives of the involved organisational units.

<sup>5</sup> In exceptional cases, the person exercising the decision-making power as per Article 22 party.

<sup>6</sup> If the committee fails to make decisions or take action in a timely manner, the chairperson may take action independently. The committee shall decide at the earliest possible date whether to approve such actions.

<sup>7</sup> The Investigative Committee, as soon as its composition is known, takes action in concrete cases; in particular,

- a* it carries out the necessary investigations for implementing measures and sanctions;
- b* it implements the required preventative measures during proceedings;
- c* it coordinates further proceedings and refers the matter to the competent authorities, initiates further supporting measures or terminates the process either upon receiving consent from all involved parties or if the requirements for investigation proceedings are no longer met;
- d* it communicates with the Communication division of the President's Office of Bern University of Applied Sciences and, depending on the specific circumstances, other persons (e.g. management or teaching staff) about possible communication measures as per Article 43;
- e* it evaluates in collaboration with the managers whether planned or agreed measures meet their objectives.

### 5.3. Additional persons

The President, the Heads of Schools, the Vice-Presidents, the Administrative Director

**Art. 22** The President, the Heads of Schools, the Vice-Presidents and the Administrative Director must ensure compliance with the present regulations within their sphere of responsibility and exercise their decision-making powers in accordance with the legislation on Bern University of Applied Sciences and the employment legislation.

Managers and teaching staff

**Art. 23** Managers and teaching staff

- a pursue information about violations of personal integrity and advise affected persons on the counselling and support services available at Bern University of Applied Sciences;
- b take appropriate de-escalation measures upon learning about a violation of personal integrity;
- c work with the parties involved in common work-related and interpersonal conflicts to find a solution; if any of the main parties involved demand that the Investigative Service be involved, the matter must be handed over to said service as per Article 16;
- d upon receiving a report about a violation of personal integrity, act in accordance with their duty to take action and maintain confidentiality as laid out in Articles 16 and 17 and exercise their duty of care as per employment legislation;
- e coordinate their own steps with the Investigative Committee if the latter is involved in the case;
- f take measures to protect affected persons if instructed to do so by the Investigative Committee;
- g exercise their decision-making powers in accordance with the legislation on Bern University of Applied Sciences legislation and the employment legislation.

## 6. Investigation proceedings

### 6.1. Process

Report

**Art. 24** The affected person and the accused person may submit a report to the Investigative Service. Managers and, following a consultation with the former, HR consultants may also file a report after hearing the affected person. Any member of the Investigative Service may be approached for this purpose.

Party status

**Art. 25** <sup>1</sup> The affected person and the accused person have the status of parties and enjoy all the rights of parties laid out in the cantonal legislation.

<sup>2</sup> Requests concerning the involvement of additional experts or the delegation of the performance of clarifications to third parties in accordance with Article 21 Paragraphs 4 and 5 are possible insofar as sufficient information on the concrete circumstances is available for a decision to be made in this regard. The Investigative Committee shall submit such applications for decision to the person exercising the decision-making power as per Article 22. With regard to the involvement of other experts, the application is only forwarded if the Investigative Committee does not decide to involve them itself.



	<p><sup>3</sup> The Investigative Committee notifies the parties to the procedure about the commencement of investigative proceedings and keeps them informed about all relevant steps.</p> <p><sup>4</sup> Additional persons do not have the status of parties and are not informed about the further course of the proceedings. This does not affect information as per Article 26 nor communication as per Article 43.</p>
<p>Information</p>	<p><b>Art. 26</b> <sup>1</sup> In cases where the accused person is an employee or a student, the Investigative Committee notifies their appointing authority (employee) or Head of School (student) about the initiation of investigation proceedings, relevant procedural steps, measures decided and the conclusion of the proceedings.</p> <p><sup>2</sup> The Investigative Committee may notify additional employees of Bern University of Applied Sciences who are assigned tasks in connection with the incidents in question to the extent required for coordinating the proceedings, implementing measures or allowing the involved persons to carry out their duties.</p>
<p>Protecting the interests of the affected parties; seeking an amicable solution</p>	<p><b>Art. 27</b> <sup>1</sup> The Investigative Service and the Investigative Committee protect the legitimate interests of all involved parties and contact the affected person at an early stage of the process. They make every effort to deal with the complaint promptly.</p> <p><sup>2</sup> The Investigative Service and the Investigative Committee take the affected person's views on initiating investigation proceedings into account to an appropriate extent and strives for an amicable solution among all parties, taking supporting measures if necessary. Depending on the concrete circumstances, the Investigative Committee strives for an amicable solution among all parties, taking supporting measures if necessary.</p> <p><sup>3</sup> In exceptional cases, investigation proceedings may be initiated without consent from the affected person, for example, if there are signs of a particularly severe violation or in circumstances in which Bern University of Applied Sciences is forced to take action. If, in such a case, the affected person requests not to be confronted with the proceedings, their wish should be respected as much as possible.</p>
<p>Presumption of innocence</p>	<p><b>Art. 28</b> Until a definitive decision has been made or an amicable solution has been found, all persons shall be assumed to have acted in accordance with the present regulations ('presumption of innocence').</p>
<p>Hearings</p>	<p><b>Art. 29</b> <sup>1</sup> The Investigative Committee interviews the affected person and the accused person – and, if necessary, any further persons – separately and creates a written record of the meeting.</p> <p><sup>2</sup> These hearings can be conducted by one or more members of the Investigative Committee.</p> <p><sup>3</sup> An additional person may be appointed to take notes. If the interviewee consents, an audio recording of a hearing may be produced for documentation purposes; the recording shall be deleted once the written record has been signed.</p>



Further evidence	<b>Art. 30</b> The Investigative Committee may gather and secure further evidence.
Preventative measures	<b>Art. 31</b> <sup>1</sup> During the proceedings, the Investigative Committee takes all necessary preventative measures as laid out in Section 27 of the Administrative Procedure and Jurisdiction Act ( <i>Verwaltungsrechtspflegegesetz</i> <sup>5</sup> ).  <sup>2</sup> In particularly time-sensitive cases, preventative measures may be taken without granting the right to be heard.
Suspension of proceedings	<b>Art. 32</b> The Investigative Committee may suspend proceedings if it appears appropriate to await the outcome of a related external procedure, e.g. a process aimed at reaching an amicable solution.
Termination of proceedings	<b>Art. 33</b> The Investigative Committee may terminate proceedings either upon receiving consent from all involved parties or if the requirements for investigation proceedings are no longer met. This does not apply to severe cases where there is an overriding public interest for further investigation.
Report	<b>Art. 34</b> <sup>1</sup> The Investigative Committee produces a report to complete proceedings. This report contains a description of the incident and the investigative actions taken, an assessment and, if applicable, recommended measures and sanctions.  <sup>2</sup> The Investigative Committee initially submits a draft report to the affected person and the accused person, giving them ten days to request additional investigative steps. After the ten days, the Investigative Committee decides whether to make any adjustments or additions.  <sup>3</sup> The Investigative Committee then submits the completed report to the affected person, the accused person and, along with the relevant files, the units in charge of implementing measures. It informs the affected person and the accused person simultaneously that they have the opportunity to make a written statement about the outcome to the authorities responsible for implementing measures within ten days (right to be heard).
Decision	<b>Art. 35</b> Decisions about measures and sanctions are taken by the persons authorised to do so as per the legislation on Bern University of Applied Sciences and the employment legislation.

## 6.2. Rights and obligations of interviewees

Accompanying person	<b>Art. 36</b> The affected person and the accused person and any further interviewees may be represented in the procedure and accompanied to interviews by a trusted third party.
Duty to cooperate	<b>Art. 37</b> The affected person, the accused person and any other employees and students of Bern University of Applied Sciences have a duty to cooperate with the investigation proceedings. Subject to employment

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<sup>5</sup> VRPG, BSG 155.21.

law, they may refuse to cooperate if their cooperation would incriminate them or any of their close relatives.

## 7. Measures and sanctions

### General provisions

**Art. 38** <sup>1</sup> In individual cases and upon consideration of all relevant circumstances, Bern University of Applied Sciences may initiate appropriate measures or sanctions under employment law or disciplinary law as laid out in the legislation on Bern University of Applied Sciences and the employment legislation. It may order additional measures, such as organisational changes, or issue instructions to managers and employees. Third parties may be banned from the University's premises to protect the affected person or additional persons.

<sup>2</sup> Voluntary steps and possible agreements must be taken into consideration when determining measures.

### Measures aimed at employees

**Art. 39** <sup>1</sup> In accordance with the employment legislation, the following measures may be considered for employees:

- a* behavioural instructions;
- b* temporary suspension from duty;
- c* statutory notice of termination;
- d* immediate notice of termination;
- e* transfer;
- f* other measures, e.g. agreement of targets.

### Measures and sanctions aimed at students

**Art. 40** <sup>1</sup> In accordance with the legislation of Bern University of Applied Sciences, the following legal and disciplinary measures and sanctions may be considered for students:

- a* in case of minor disciplinary violations: reprimand,
- b* in case of severe or repeated disciplinary violations:
  1. reprimand,
  2. exclusion from individual classes and premises of Bern University of Applied Sciences for one or more semesters,
  3. temporary or permanent suspension of studies,
  4. additional administrative or organisational measures.

<sup>2</sup> The Head of School implements the measures specified under Letter A; the President implements the measures specified under Letter B.

### Notifying law enforcement

**Art. 41** Bern University of Applied Sciences can report an offence if an incident has potential criminal implications. If there are concrete grounds for suspicion of a crime that must be prosecuted by law<sup>6</sup>, the incident must be reported to the Office of the Public Prosecutor.

## 8. False accusations

**Art. 42** Persons who deliberately and falsely accuse another person of violating personal integrity or spread such accusations against their

<sup>6</sup> A 'crime' is a criminal offence punishable with more than three years of imprisonment. In the context of the present regulations, this particularly includes: homicide, grievous bodily harm, endangerment of life, unlawful detention, child sexual abuse, sexual coercion, rape, molestation, offences related to hardcore pornography, various dangerous offences (arson, explosives etc.), public incitement to commit crimes or acts of violence, false accusation.



better knowledge may be punished by the measures outlined in chapter 7. They may be liable to prosecution.

## 9. Communication and documentation

Communication

**Art. 43** In special circumstances and in consideration of personal and data privacy, Bern University of Applied Sciences may communicate internally and publicly about ongoing and concluded proceedings.

Retention of documents

**Art. 44** <sup>1</sup> The Investigative Service stores all documents relating to concrete incidents in compliance with data privacy and archiving laws. Other persons and units holding any of the roles defined in chapter 5.3 submit any documents they have produced in connection with the investigation proceedings to the Investigative Service no later than the date on which the case is closed.

<sup>2</sup> Any decisions about measures aimed at employees or students, including the decision to refrain from taking any measures despite evidence of misconduct, will be added to their employee or student records. If accusations against a person are not substantiated, the information will not be included in that person's employee or student record unless this is explicitly requested by the person.

Disclosure of documents to other authorities

**Art. 45** Disclosure of documents to other authorities is governed by the respectively applicable laws.

## 10. Application of the law

**Art. 46** All proceedings, including appeal proceedings, are governed by the cantonal laws.

## 11. Final provisions

Repeal of regulations

**Art. 47** The regulations on sexual harassment at work and during studies at Bern University of Applied Sciences, dated 1 March 2006, are repealed.

Entry into force

**Art. 48** These regulations shall enter into force on 1 October 2023.

Bern, 20<sup>th</sup> of September 2023

Bern University of Applied Sciences  
University Board

Markus Ruprecht, President