

**COMPLAINTS PROCEDURE REGARDING**

**UNDESIRABLE BEHAVIOUR**

**GERRIT RIETVELD ACADEMY**

Sexual intimidation, verbal intimidation and  
discrimination, aggression and violence, bullying, etc.

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# **Complaints procedure regarding undesirable behaviour**

## **Gerrit Rietveld Academy**

### **Contents**

Explanation	
Underlying principles.....	3
Scope of the procedure.....	3
Definitions.....	4
Procedure.....	<b>Fout! Bladwijzer niet gedefinieerd.</b> 6

Complaints procedure regarding undesirable behaviour	
art. 1 .....	Definitions..9
art. 2 .....	Confidentiality, obligation of secrecy..9
art. 3.....	Confidential adviser..9
art. 4 .....	Duties of the confidential adviser.10
art. 5 .....	Consent of complainant.10
art. 6	Registration and recording by confidential adviser.10
art. 7 .....	Working procedure of complaints committee.10
art. 8 .....	Overview of measures.10
art. 9...	Recommendation to the Executive Board or Supervisory Board
art. 10	Decision of the Executive Board or Supervisory Board
art. 11.....	Appeal.11

### **Explanation**

#### **Underlying principles**

Everyone at the Gerrit Rietveld Academy (GRA) must have the opportunity to be able to study and work in a pleasant atmosphere. Safety is one of the conditions for this. The GRA wants to take every possible measure to minimise the psychosocial study load and workload caused by undesirable behaviour (bullying, discrimination, sexual intimidation, aggression and violence, etc.).

Because Stichting Gerrit Rietveld Academie has committed itself to the Collective Labour Agreement for Higher Professional Education (*Collectieve Arbeidsovereenkomst HBO*), it is obliged to comply with the formulated provisions with regard to undesirable acts, as stated in the Collective Labour Agreement (chapter U: sexual intimidation and aggression).

## **Scope of the procedure**

Undesirable acts are not an isolated phenomenon, but are related to the prevailing standards and values in our society, which are expressed in our manners.

They are related in part to the structural inequality between men and women that still persists in practice, in which the position of women is generally more vulnerable than that of men.

In addition, undesirable behaviour can be related to an imbalance of power between lecturers and students. In a teaching situation, the lecturer has formal power over his/her students and may also have a personal relationship with his/her students. The lecturer has to perform his/her duties within this conflicting field, which can be amplified if the students' work contains elements of a sexual nature.

This complaints procedure applies to cases involving undesirable behaviour, and also to cases in which a staff member or student (male or female) is wrongfully accused of undesirable acts.

The Gerrit Rietveld Academy (GRA) has appointed two confidential advisers, one for staff and one for students.

The confidential advisers have both curative and preventive duties: supporting the complainant individually, as well as activating and supporting the policy in order to prevent the phenomenon of undesirable behaviour.

In the event of a complaint, attempts will initially be made to reach a settlement. In order to explore the possibilities in this respect, the Executive Board, or the Remuneration Committee of the Supervisory Board should the complaint relate to a member of the Executive Board, will hear both the complainant and the defendant. If this does not lead to a satisfactory solution, the complainant may appeal to the National Complaints Committee for Higher Professional Education.

Notification of the occupational physician with regard to possible undesirable behaviour will take place in the regular consultations between the occupational physician, Human Resources and management (Social Medical Team). If necessary, he/she will refer staff members to the confidential adviser.

## **Definitions**

Sexual intimidation is defined as: *every form of verbal, non-verbal or physical behaviour with a sexual connotation, with the aim or consequence of offending the person's dignity.* This can have the intended or unintended result of:

- a) creating an unpleasant or hostile work or study situation; and/or
- b) a disruption of work or study performance for the person subjected to the behaviour; and/or
- c) the person subjected to the behaviour being obstructed or impaired in the full and equal enjoyment of work or study facilities, benefits or opportunities; and/or
- d) the full and equal enjoyment of work or study facilities being made subject to conditions.

Bullying is defined as: *all forms of intimidating behaviour of a structural nature, by one or more staff members/students, aimed at a staff member/student or a group of staff members/students who cannot defend themselves against this behaviour (repetitive behaviour / not a single act).* This can have the intended or unintended result of:

- a) creating an unpleasant, intimidating or hostile work or study situation; and/or
- b) a disruption of work or study performance for the person subjected to the behaviour; and/or
- c) the person subjected to the behaviour being obstructed or impaired in the full and equal enjoyment of work or study facilities, benefits or opportunities; and/or
- d) the full and equal enjoyment of work or study facilities being made subject to conditions.

Verbal intimidation and discrimination are defined as: *Incidents in which a staff member or student is seriously harassed, threatened, attacked or insultingly discriminated against, verbally or in writing, under conditions related directly to carrying out one's work or studies.* This concerns acts that aim to:

- a) damage the work or study performance of a staff member or student; and/or
- b) create an intimidating, hostile or unpleasant work or study environment, which can seriously damage the work or study performance of a staff member or student; and/or
- c) clearly create an intimidating, hostile or unpleasant work or study environment.

Aggression and violence are defined as: *Incidents in which a staff member or student is psychologically or physically harassed, threatened or attacked, under conditions directly related to carrying out one's work or studies.* This concerns acts that aim to:

- a. damage the work or study performance of a staff member or student; and/or
- b. create an intimidating, hostile or unpleasant work or study environment, which can seriously damage the work or study performance of a staff member or student; and/or
- c. clearly create an intimidating, hostile or unpleasant work or study environment; and/or
- d. cause the full and equal enjoyment of work or study facilities to be made subject to conditions.

### **Procedure**

The Gerrit Rietveld Academy is affiliated to the Foundation for Educational Disputes Committees (*Stichting Geschillencommissies Onderwijs*). This foundation maintains committees for the different sectors and subjects, including complaints about behaviour occurring in higher professional education (HBO).

#### *Complaints concerning a staff member/student*

- In the first instance, complaints will be submitted to the Executive Board by the complainant in writing. Complaints should be addressed to the Head of Human Resources, who will be responsible for registering and passing on the complaints. Anonymous complaints will not be considered!
- The defendant will be notified of the complaint immediately.
- The Executive Board will hear the complainant and the defendant separately. The complainant and the defendant can be represented by the confidential adviser or by a third party chosen by the complainant and defendant themselves. An attempt will be made to reach a settlement if possible. Witnesses and other persons concerned may be heard. A report will be made of the conversations; the complainant and the defendant will be given the opportunity to comment on the report. The Executive Board will ensure that this phase lasts no more than four weeks.
- If this does not lead to a satisfactory solution for the complainant, he/she can submit his/her complaint to the national complaints committee. The complainant and the defendant can be represented by the confidential adviser or by a third party chosen by the

complainant and defendant themselves. In accordance with the regulations of the National Complaints Committee for Higher Professional Education (*Landelijke Klachtencommissie HBO*) (Article 10, paragraph 4) the complainant must demonstrate that the complaint has been submitted to the Executive Board, but that this did not lead to a satisfactory solution.

- This provision does not apply to complaints about sexual intimidation. Such complaints can be submitted to the complaints committee in writing without the intervention of the Executive Board. The address is: Landelijke Klachtencommissie HBO, Attn. the secretary, Postbus 85191, 3508 AD Utrecht, The Netherlands
- Within 6 weeks after completing its investigation, the committee will issue its recommendation to the Executive Board, with the complainant and the defendant being notified as soon as possible. The chairman can extend this term by a maximum of four weeks.

- The Executive Board will make a decision within 15 days, based on the recommendation issued. The complainant and the defendant will be notified of the decision immediately. They can appeal to the judiciary against the decision.

*Complaints concerning a member of the Executive Board*

- In the first instance, complaints concerning a member of the Executive Board will be submitted in writing to the Supervisory Board, represented in the matter by the *remuneration committee*. Complaints should be addressed to the Head of Human Resources, who will be responsible for registering and passing on the complaints. Anonymous complaints will not be considered.
- The defendant will be notified of the complaint immediately.
- The remuneration committee will hear the complainant and the defendant separately. The complainant and the defendant can be represented by the confidential adviser or by a third party chosen by the complainant and defendant themselves. An attempt will be made to reach a settlement if possible. The committee may hear witnesses and other persons concerned. A report will be made of the conversations; the complainant and the defendant will be given the opportunity to comment on the report. The Supervisory Board will ensure that this phase lasts no more than four weeks.
- If this does not lead to a satisfactory solution for the complainant, he/she can submit his/her complaint to the national complaints committee. The complainant can be represented by the confidential adviser or by a third party chosen by the complainant himself/herself. In accordance with the regulations of the National Complaints Committee for Higher Professional Education (*Landelijke Klachtencommissie HBO*) (Article 10, paragraph 4) the complainant must demonstrate that the complaint has been submitted to the Supervisory Board, but that this did not lead to a satisfactory solution.
- This provision does not apply to complaints about sexual intimidation. Such complaints can be submitted to the complaints committee in writing without the intervention of the Supervisory Board. The address is: Landelijke Klachtencommissie HBO, Attn. the secretary, Postbus 85191, 3508 AD Utrecht, The Netherlands
- Within 6 weeks after completing its investigation, the committee will issue its recommendation to the Supervisory Board, with the complainant and the defendant being notified as soon as possible. The

chairman can extend this term by a maximum of four weeks.

- The Supervisory Board will make a decision within 15 days, based on the recommendation issued. The complainant and the defendant will be notified of the decision immediately. They can appeal to the judiciary against the decision.

## **Complaints procedure regarding undesirable behaviour**

### **Article 1 Definitions**

The following definitions are used in this procedure:

- a. Undesirable behaviour, which has the intended or unintended result of:
  - creating an unpleasant, intimidating or hostile work or study situation; and/or
  - a disruption of work or study performance for the person subjected to the behaviour;
  - the person subjected to the behaviour being obstructed or impaired in the full and equal enjoyment of work or study facilities, benefits or opportunities; and/or
  - the full and equal enjoyment of work or study facilities being made subject to conditions.

Also see the definitions included in the explanation of this procedure.

- b. Executive Board: the Executive Board of the Gerrit Rietveld Academy
- c. Supervisory Board: the Supervisory Board of the Gerrit Rietveld Academy
- d. Confidential adviser: a person as referred to in Article 3 of this procedure
- e. Complaints committee: the National Complaints Committee for Higher Professional Education (*Landelijke Klachtencommissie HBO*) of the Foundation for Educational Disputes Committees (*Stichting Geschillencommissies Onderwijs*)
- f. Complaint: a complaint concerning undesirable behaviour submitted to the confidential adviser or the complaints committee
- g. Complainant: a staff member or student of the GRA confronted with undesirable behaviour in the work or study situation, who approaches the confidential adviser or complaints committee with a complaint
- h. Defendant: the person about whose behaviour a complaint has been submitted to the complaints committee.

### **Article 2 Confidentiality, obligation of secrecy**

Complaints will be treated confidentially. Maintaining confidentiality of facts and documents is compulsory. Failure by a staff member to observe the obligation of secrecy will be regarded as dereliction of duties for the purposes of Article E of the Collective Labour Agreement.

### **Article 3 Confidential adviser**

In principle, the confidential adviser will be female.

### **Article 4 Duties of the confidential adviser**

The confidential adviser's duties include:

- a) informing staff and students on this procedure concerning undesirable behaviour
- b) providing emotional support to the complainant in the steps he/she undertakes to bring an end to the undesirable situation
- c) assisting the complainant in the steps he/she undertakes to bring an end to the undesirable situation
- d) identifying problem areas within the GRA, if applicable, and consulting on this with the GRA's personnel officer and/or members of the Executive Board
- e) making policy recommendations to prevent or combat undesirable behaviour

### **Article 5 Consent of complainant**

All steps undertaken by the confidential adviser in her duties, as referred to in Article 4, paragraphs b and c, require the consent of the complainant.

### **Article 6 Registration and recording by confidential adviser**

- a) Reported cases will be registered by the confidential adviser, and the information will be destroyed after 5 years.
- b) She will keep an anonymous record, which will be presented to the Executive Board each year.

### **Article 7 Working procedure of complaints committee**

The working procedure of the complaints committee is described in the Regulations of the National Complaints Committee for Higher Professional Education, which have been attached to this Procedure.

### **Article 8 Overview of measures**

- 1) If a complaint is upheld, the Executive Board can take one of the following measures on the basis of the complaints committee's recommendations:

*Against students (Students' Charter, Chapter 13 House Rules and Maintaining Order):*

- a. warning
- b. refusing or withdrawing enrolment
- c. full or partial refusal of access to the building and premises of the GRA for a maximum of one year.

*Against staff members (in accordance with B, Collective Labour Agreement for Higher Professional Education 2007-2010):*

- a. warning
- b. suspension
- c. dismissal

### **Article 9 Recommendation to the Executive Board or Supervisory Board**

Within 6 weeks after completing its investigation, the committee will issue its recommendation to the Executive Board or the Supervisory Board, with the complainant and the defendant being notified as soon as possible. The chairman can extend this term by a maximum of four weeks.

### **Article 10 Decision of the Executive Board or Supervisory Board**

The Executive Board or the Supervisory Board will make a decision within 15 days, based on the recommendations issued, and will notify the complainant, the defendant and the complaints committee of its decision as soon as possible.

### **Article 11 Appeal**

Both the complainant and the defendant can appeal to the judiciary against the decision of the Executive Board / Supervisory Board.

Adopted by the Executive Board  
1 April 2008