UNIWERSYTET WARSZAWSKI | MONITOR UNIWERSYTETU WARSZAWSKIEGO

Item 384

ORDINANCE NO 17
OF THE RECTOR OF THE UNIVERSITY OF WARSAW

of 31 August 2020

on the Anti-Discrimination Procedure at the University of Warsaw

Based on § 36 s. 1 of the Statute of the University of Warsaw (UW Monitor, 2019, item 190), it is hereby ordered as follows:

§ 1

The Anti-Discrimination Procedure at the University of Warsaw is hereby introduced, attached as an appendix to the ordinance.

§ 2

The ordinance shall apply to reports made after it came into force, including reports pertaining to events that occurred before the ordinance came into force, but no more than one year prior to this date.

§ 3

The ordinance shall enter into force as of the day of its signing.

Rector of the University of Warsaw:
M. Pałys

Appendix
to Ordinance no 205 of the Rector of the University of Warsaw of 31 August 2020
on the Anti-Discrimination Procedure at the University of Warsaw

ANTI-DISCRIMINATION PROCEDURE

§ 1
General principles

1. The Anti-Discrimination Procedure sets forth the rules for combating discrimination (including sexual harassment) at the University of Warsaw hereinafter referred to as the "University."

2. The purpose of the introduction of the Anti-Discrimination Procedure is to support anti-discrimination activities and protect the employees against discrimination in the workplace or in relation to work, as well as when such incidents occur.

§ 2
Definitions of terms

Any time the ordinance mentions:

1) Anti-Discrimination Procedure – this shall be understood to mean a set of rules determining the procedure for combating discrimination signs, and the process to be followed when such incidents occur.
2) Discrimination – this shall be understood as unequal treatment with respect to the establishment and termination of the employment relationship, employment terms, promotion and access to training in order to develop professional qualifications, particularly in respect of sex, age, disability, race, religion, nationality, political views, trade union membership, ethnic origin, religious convictions, sexual orientation, or due to employment for a definite or an indefinite period, or on full–time or part-time basis, both in the form of direct, as well as indirect discrimination.
3) Anti-Discrimination Committee, hereinafter referred to as the "Committee" – this shall be understood to mean a collegial body established by the Employer for the purposes of examining complaints for discrimination, as well as preventing and combating discrimination at the Employer, in keeping with the rules set forth herein.
4) Anti–Discrimination Coordinator – this shall be understood to mean a person appointed by the Employer for the purposes of accepting complaints for discrimination, as well as preventing and combating discrimination at the Employer, in keeping with the rules set forth herein.
5) Employer – this shall be understood to mean the University with its registered office in Warsaw, represented by the Rector.

6) Employee – this shall be understood to mean a person employed at the University, based on an employment relationship, regardless of the employment basis (contract of employment, nomination, appointment, selection) or working for the University based on a civil-law contract.
7) Doctoral candidate – shall be understood to mean a participant of doctoral studies, a person studying at a doctoral school, or any other person with the doctoral thesis procedure started at the University.
8) Student – this shall be understood to mean a person studying at the University, at the first cycle study, second cycle study or long second cycle study, or persons participating in educational classes of another type, e.g. summer schools or Open University courses.
9) Organisational unit of the University – this shall be understood to mean a faculty or another organisational unit of the University within the meaning of the Statute of the University.

§ 3
Entities appointed to combat discrimination

In order to combat discrimination and its consequences, the Anti-Discrimination Committee shall be established and the Anti-Discrimination Coordinator shall be appointed at the University of Warsaw.

§ 4
Anti-Discrimination Committee

1. The Anti-Discrimination Committee, hereinafter referred to as the "Committee," will hear cases in keeping with the following principles:
1) principle of immediacy;
2) principle of confidentiality;
3) principle of impartiality.

2. The Committee shall comprise the chairperson and from six to nine members appointed for a four-year term of office starting 1 October in the year of the Rector's election. To support the Committee, the Rector shall appoint a general-university administrative employee cooperating with the equal opportunity specialist, Anti-Discrimination Coordinator and the Academic Ombudsman in charge of student and employee affairs.

3. Members of the Committee shall be appointed and dismissed by the Rector, who shall also appoint the chairperson of the Committee.

4. Membership in the Committee shall expire:
1) upon the expiration of the term of office;
2) as a result of termination or expiration of the employment relationship;
3) in case of the Rector dismissing the member;

4) in case of death of the Committee member.

5. In particular, a Committee member can be dismissed in case of:
1) the Committee member submitting his/her resignation from the function;
2) illness of the Committee member, long-term trip or any other absence preventing the performance of tasks by the Committee member;
3) conviction by a valid sentence for an intentional offense prosecuted by a public prosecutor or by a final decision of a disciplinary committee.

6. Committee members should have knowledge and experience in the area of labour law, including anti-discrimination, and should be trained by the Personal Data Protection Officer on personal data protection regulations and procedures. Before starting activities in the Committee, members must complete the course on actions aimed at combating discrimination in academic environment.

7. Subject to applicable legal regulations, the head of every organisational unit at the University shall be obliged to present the documents in his/her possession and provide information on matters related to the proceedings carried out by the Committee, at the request of the Committee.

8. The Committee may enact detailed rules governing its activities, subject to the approval by the Rector.

§ 5
Anti-discrimination Coordinator

1. The Anti-Discrimination Coordinator, hereinafter referred to as the "Coordinator," shall be appointed by the Rector, who shall simultaneously determine the Coordinator's tasks.

2. Tasks of the Coordinator shall include, in particular:
1) accepting and examining complaints for discrimination;
2) collecting data on discrimination signals;
3) collecting information on anti-discrimination good practices.

§ 6
Initial proceedings

1. Anyone, who feels discriminated, may file a complaint. The complaint shall be filed in writing to the Coordinator.

2. The Coordinator shall carry out a preliminary verification of the report and shall immediately interview the person, who reported discrimination. After verifying the case, the Coordinator shall take further steps:
1) in case of confirming that the circumstances indicating discrimination are likely, the Coordinator shall immediately transfer the case to the Committee Chairperson, in order to institute the proceedings referred to in § 7;

2) if the circumstances do not indicate that discrimination is likely, the Coordinator may:
   a) transfer the case to the Academic Ombudsman or the Centre for Dispute and Conflict Resolution at the Faculty of Law and Administration, in order to resolve the dispute amicably;
   b) refer the person, who reported discrimination, upon its consent, to an appropriate organisational unit that can help to solve the problem;
   c) recognise the report as unjustified.

3. Students, doctoral candidates and employees of the University, as well as persons from outside the University, shall be able to report the complaint. Anonymous reports shall not be examined.

4. Two conditions jointly must be satisfied in order to report a complaint: the person, against whom the complaint is made, has a status of the student, doctoral candidate or employee of the University, and events described in the complaint took place at the premises of the University or were functionally related to its activities.

5. The complaint shall be made before the expiry of one year from the event or the last one of a series of events subject to the complaint. In exceptionally justified situations, the chairperson of the Committee can decide on accepting the complaint referring to events that took place more than one year earlier.

§ 7

Activities taken by the Anti-Discrimination Committee

1. The chairperson of the Committee shall appoint three persons for the purposes of examining the case. The persons appointed shall issue an opinion on behalf of the whole Committee.

2. Based on the decision of the chairperson of the Committee, persons appointed to examine the case can be joined by the following person, in an advisory capacity: psychology expert, legal expert, Academic Ombudsman in charge of student and employee matters, representative of the board of the student self-government or another person, whose specialised competencies can prove useful when examining the case.

3. Information on instituting the proceedings shall be provided to the person accused.

4. Within the framework of the explanatory proceedings, persons appointed to explain the case shall call and hear the person accused and can question this person. Persons appointed to explain the case can also call and hear other persons having information on the case, question these persons, and examine necessary documents.

5. The explanatory proceedings carried out by persons appointed to explain the case should be completed within two months.

6. At any stage of the proceedings, persons appointed to explain the case can transfer the case to mediation proceedings.

7. The purpose of the proceedings shall be issuing an opinion on whether discrimination took place.

8. The Committee shall issue an opinion indicating whether the actions or omissions showed the features of discrimination. It may also recommend recovery activities, such as e.g. transfer of the employee, change of the group in the case of a student, psychological support, mandatory participation in anti-discrimination training/workshop, etc. or may transfer the case to the disciplinary prosecutor in accordance with provisions of the Act – Law on higher education and science.

9. In justified instances, persons appointed to explain the case may recommend instituting the anti-mobbing proceedings.

§ 8
Closure of the proceedings before the Anti-Disciplinary Committee

1. The Committee opinion, including a written justification of its position, shall be transferred to the Rector and the head of the unit or another superior, with a copy to the person, who initiated the proceedings, and the person, against whom the proceedings were carried out.

2. If the Committee concludes that actions or omissions show features of discrimination, the Rector – after seeking an opinion of the head of the unit or another responsible superior – shall take a decision on imposing a disciplinary penalty or transferring the case to the disciplinary committee. The person, who initiated the proceedings, shall also be notified of the Rector's decision.

3. The Committee may also recommend the implementation of recovery activities, such as in particular:

1) imposing on the perpetrator of discrimination the obligation to participate in mandatory anti-discrimination training/workshop;
2) recommending anti-discrimination training for employees or superiors in the particular unit;
3) transferring the employee (aggrieved person or the perpetrator) to another position or unit;
4) changing the process of study of the student subject to discrimination, in particular changing the study group, changing the examiner, ensuring the opportunity to retake the examination, ensuring conditional credit for a course;
5) changing the process of study of the student, who was the perpetrator of discrimination, in particular prohibiting participation in courses run by the aggrieved person, prohibiting registration for the examination to the aggrieved person, prohibiting participating in courses, in which the aggrieved person participates.

§ 9
Consequences of issuing an opinion on the occurrence of discrimination

In the case of issuing the opinion confirming that discrimination occurred:

1) the aggrieved student or doctoral candidate may apply to the responsible head of the educational unit for changing the process of study, in particular changing the study group or the examinator in order to avoid further contacts with the accused academic. If it is possible taking into account technical and organisational aspects, the head of the educational units shall accept the application. If the perpetrator of discrimination is a head of the educational unit or the head of the organisational unit of the University, the application shall be filed to the Rector. The application can also be filed to the Rector in the case of justified suspicion of a conflict of interests of the head of the educational unit or the head of the organisational unit of the University related to the particular case;
2) the aggrieved employee may apply to the head of the organisational unit of the University for changing the management method or place of work, in such a way as to avoid further contacts with the perpetrator of discrimination. If it is possible taking into account organisational aspects, the head of the organisational unit of the University shall accept the application. If the perpetrator of discrimination is a head of the organisational unit of the University, the application shall be filed to the Rector. The application can also be filed to the Rector in the case of justified suspicion of a conflict of interests of the head of the organisational unit of the University related to the particular case;
3) the aggrieved doctoral candidate may apply to the head of the doctoral school or the head of the doctoral study centre for changing the process of study, changing the management method or place of work, in such a way as to avoid further contacts with the perpetrator of discrimination. If it is possible taking into account organisational aspects, the head of the doctoral school or the head of the doctoral study centre shall accept the application. If the perpetrator of discrimination is the head of the doctoral school or the head of the doctoral study centre, the application shall be filed to the Rector. The application can also be filed to the Rector in the case of justified suspicion of a conflict of interests of the head of the doctoral school or the head of the doctoral study centre related to the particular case.