



HARASSMENT COMPLAINTS REGULATION¹

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Introduction

The purpose of the Harassment Regulation is to safeguard the right to a good study and work environment at the Theological University of Kampen. The basis for the regulation is Article 1.12 paragraph 3 of the CAO (Collective Labour Contract)

In a good study and work environment, good fellowship, respect and care for others are part of normal social conventions, and undesirable behaviour warrants an alert reaction. To achieve and maintain such a climate, an active contribution by everyone working or studying at the university is required, not only concerning one's own behaviour but also by adopting a watchful attitude with regard to any form of harassment or bullying identified in the own work or study environment. Harassment should always be questioned; either by directly addressing the people concerned or by involving third parties.

Scope of the regulation

This regulation applies to all employees and students of the Theological University of Kampen and persons mentioned in Chapter 1 of the Regulation, who are located within the Theological University of Kampen.

Chapter 1 Definitions

University: Theological University in Kampen;

Statute: The Statute of the Theological University of the Reformed Churches in The Netherlands;

¹ This regulation is derived from the regulation of the Vrije Universiteit: *Ongewenst gedrag 12/2007*

Board of Directors:	The Board of Directors of the University;
CAO:	the Collective Labour Agreement of Universities in the Netherlands;
Harassment:	Behaviour that, be it verbal, non-verbal or otherwise physical, digital, by phone or text message, violates another person's dignity such as, amongst others, bullying, discrimination, undesirable sexual behaviour, racist behaviour, aggression and violence in university buildings or on university premises.
Report:	Oral or written notification of alleged harassment to a confidential adviser.
Reporter:	<p>The person</p> <ol style="list-style-type: none"> 1. against whom alleged harassment has taken place or who has witnessed it within the university buildings or on university premises and 2. who reports this to a confidential adviser and 3. who, at the time of the alleged harassment, had <ul style="list-style-type: none"> • an employment contract with the university or otherwise carried out activities for the university, or • was registered as a student or external student at the university, or • enjoyed hospitality, or • followed education in a course or education programme under the university's supervision, or • was present as a visitor on the university premises.
Complaint:	Written complaint concerning alleged harassment that is submitted by a complainant to the Board of Directors;
Complainant:	<p>The person</p> <ol style="list-style-type: none"> 1. against whom alleged harassment has taken place or has been witness to it in university buildings or on university premises and 2. who submits a complaint about this to the Board of Directors and 3. who, at the time of the alleged harassment <ul style="list-style-type: none"> • had an employment contract with the university or otherwise carried out activities for the university, or • was registered as a student or external student at the university, or • enjoyed hospitality, or • followed education in a course or education programme under the university's supervision.
Accused:	The person

1. at whose address a report or complaint is directed
2. who, at the time of alleged harassment,
 - had an employment contract with the university or otherwise carried out activities for the university, or
 - was registered as a student or external student at the university, or
 - enjoyed hospitality, or
 - followed education in a course or education programme under the university's supervision, or
 - was present as a visitor on the university premises.

Confidential adviser: The person mentioned in Appendix 1.

Complaints committee: The committee appointed by the Board of Directors, as referred to in Appendix 2.

Chapter 2 General

Article 1 Prohibitive Rule

It is forbidden for all persons mentioned under 'Accused' in Chapter 1 to victimise or harass others in the university buildings and on university premises.

Article 2 Confidentiality when dealing with report/complaint

1. Every report and complaint shall be dealt with confidentially. This means that all those directly or indirectly involved in the report or complaints procedure must observe strict confidentiality concerning all they learn about the report or complaint.
2. An exception to the previous is formed by the confidential adviser and the legal adviser in the relationship with his or her client.

Article 3 Assistance by a confidential adviser

The confidential adviser plays a part in the implementation of this regulation. The tasks of the confidential adviser have been regulated in Article 4 of Appendix 1 Regulation Confidential Advisers

Report Procedure

Article 4 Making a report

A report is made to the confidential adviser.

Article 5 Report registration

1. The reports made to the confidential adviser and how they are dealt with will be registered.
2. Regarding the report, the following will be registered:
 - the date of receipt;
 - (if possible) the name of the accused;
 - the place where the alleged harassment took place;

- an indication of the nature and scope of the alleged harassment and the date, if possible;
- the assessment of the report;
- the names of witnesses, if any;
- a short description of follow-up care, arbitration or support provided.

3. With the exception of cases reported anonymously, the following data of the reporter will be registered:

- Name
- Phone number and/or
- email address and
- student number

4. The data is kept in a locked filing cabinet, to which confidential advisers have exclusive access.

5. Reports not leading to a complaint, will be saved for 2 years in the confidential advisers' filing cabinet. After that, the report will be destroyed by the coordinator of the confidential advisers.

6. A report leading to a complaint and lodged through the Complaints Procedure will be saved in conformity with Article 14, paragraph 3 of this regulation.

Chapter 4 Complaints Procedure

Article 6 Lodging a complaint

1. A complaint must be preceded by a report to the confidential adviser.

2. A complaint is submitted in writing to the Board of Directors.

3. A complaint contains the name of the complainant, the name of the accused, a description of the alleged harassment, the place (or places) where and the circumstances among which the alleged harassment took place, if possible, and names of any witnesses and, if applicable, the period during which alleged harassment took place and the already undertaken steps to stop the alleged harassment.

4. A complaint that has been submitted to the Board of Directors, will be forwarded without delay to the Complaints Committee to be dealt with.

5. As soon as possible, but at the latest within ten working days after receipt of the complaint, the administrative secretary of the Complaints Committee must send to the complainant an acknowledgement of receipt, as well as a copy of the Harassment Regulation.

6. As soon as possible, but at the latest within ten working days after receipt of the complaint, the administrative secretary of the Complaints Committee must request the confidential adviser to deliver the correspondence regarding the report. The confidential adviser will discuss with the complainant what correspondence is to be passed on. The correspondence must be sent to the Complaints Committee as soon as possible, but at the latest within ten working days.

7. The complainant is entitled to withdraw the complaint at any time. Within four weeks after withdrawal, the complainant's file will be destroyed.

8. The Board of Directors can, after consultation with the administrator(s) of the unit where the complainant and/or accused are working, make provisional arrangements.

Article 7 Police

The Board of Directors can, if a founded harassment case is suspected, and if the circumstances of the case give cause for this, decide to report the matter to the police, without altering the fact that the complainant can report the matter independently.

Article 8 Admissibility

1. A complaint is inadmissible if:

a. it does not meet the conditions mentioned in Article 6 paragraphs 1 up to and including 3.

b. it regards a visitor as described in Chapter 1.

c. it does not refer to harassment.

d. it is submitted more than one year after the alleged harassment has taken place or has been continuing unless the Complaints Committee decides otherwise.

e. the accused, at the time of the complaint being lodged, was not

- employed by contract with the university or otherwise carrying out activities for the university, or
- registered as a student or external student at the university, or
- enjoying hospitality, or
- following education in a course or education programme under the university's supervision.

2. At the latest within fifteen working days after receipt of the complaint, the chair of the Complaints Committee shall, on behalf of the Complaints Committee, make a statement as to the admissibility of the complaint.

3. In case of inadmissibility, the Chair will inform the complainant of this in writing and well-reasoned.

4. In case of admissibility, the administrative secretary will directly inform the accused in writing that a complaints procedure has been started against him or her. The secretary will include a copy of the complaint, a copy of the ruling of admissibility and a specimen of the Harassment Regulation.

5. In case of admissibility, the administrative secretary will directly inform the complainant and the Board of Directors in writing that the complaints procedure has been ruled admissible.

Article 9 Treatment of Complaint

1. The Complaints Committee will arrange one or more hearings.

2. The accused can send a written plea of defence to the administrative secretary up to one week before the start of the hearing to which he or she has been summoned.

3. If it is suspected that the complaint is related to an indictable offence, the Complaints Committee will inform the Board of Directors of this without delay.

4. If the accused is assisted by a legal adviser, the Board of Directors can, in exceptional cases, can make provisions for legal assistance for the complainant.

5. Should the complaint be declared unfounded, the Board of Directors can, in exceptional cases, decide to reimburse the accused for any costs made for legal assistance.

Article 10 Hearing

1. The Chair of the Complaints Committee shall, as soon as possible, yet within three weeks after receipt of the complaint, stipulate the date and place of the first hearing.

2. As soon as possible, yet at the latest two weeks before the hearing concerned, the secretary shall summon the complainant, accused, witnesses and/or other persons mentioned in paragraphs 9 and 10 below, in writing.

3. The hearing(s) shall take place within four weeks of the complaint having been ruled admissible by the Committee. The hearings shall be closed hearings.

4. Both complainant and accused can be assisted by someone of their own choosing. In an official capacity or upon request, parties can be heard separately.

5. At the request of one of the parties, a hearing can be apprehended for a period of four weeks at the most.

6. A written report shall be made of each hearing. The reports are to be sent to the complainant and the accused.

7. Persons other than the complainant and accused who have been heard, will receive a report regarding their hearing.

8. Everyone who has been heard, can add appendices to their report up to ten days after the report has been sent. If the secretary has not received the appendices within ten days, the content of the reports is fixed.

9 The Complaints Committee can hear witnesses as well as other persons who can provide information concerning the alleged harassment and the circumstances in which this took place. The Complaints Committee is authorised to freely collect verbal and written information for the benefit of the investigation. Employees involved in a complaints procedure and/or being heard are obliged to confidentiality concerning what they learn concerning the treatment of the complaint.

10. The Complaints Committee can hear experts.

11. The Complaints Committee can ask the complainant and the accused to come to a mutual agreement. To this end, the Complaints Committee can propose that a mediator be appointed. If an agreement has not been reached within two weeks, the committee will continue the consideration of the complaint.

12. The Complaints Committee can make an interim recommendation to the Board of Directors to take temporary measures.

13. All items which have been collected during the investigation are confidential.

14 The hearing of the complainant can be abandoned if the complainant has declared not to make use of his or her right to being heard. He or she can request to be represented by a third party.

Article 11 Anonymous witness

1. A witness who wishes to remain anonymous can submit a written request for protection of identity to the committee.
2. If the committee refuses the request, which must be done in writing and well-reasoned, the witness may withdraw himself at any time.
3. When hearing an anonymous witness, only the members of the Complaints Committee, the administrative secretary and, at the request of the witness, a confidential adviser will be present.
4. In exceptional cases, anonymous testimony can be given in writing. The committee then can ask questions in writing.
5. The report of the hearing will be anonymized.

Article 12 Complaint declared unfounded or founded and Complaints Committee's advice

1. After rounding off of the investigation, the Complaints Committee will, based on majority votes, declare the complaint founded or unfounded, which shall be done in writing and well-reasoned.
2. The declaration stating whether the complaint is unfounded or founded will be sent to the Board of Directors within, at the latest, three weeks after the hearing(s). The complainant, the accused and the confidential adviser(s) involved will also receive a specimen.
3. If the complaint has been declared founded, the Complaints Committee can advise the Board of Directors to take certain measures.
4. The committee will include in her advice a written report, intended for the Board of Directors, of the undertaken activities.

Article 13 Decision by Board of Directors

1. The Board of Directors will decide within three weeks of receiving the declaration stating whether the complaint is unfounded or founded and any advice offered, and will, paragraph 3 excepted, make a decision based on this.
2. The Board of Directors' decision regards sanctions against the accused and/or other measures on the grounds of the declaration of the complaint being founded and the nature of the culpable behaviour.
3. The Board of Directors can, before making a decision, charge the committee with gathering additional information. The Board will inform the complainant and the accused of this in writing.
4. If the Board of Directors does not adopt the committee's advice, good reasons must be given.
5. Correspondence concerning the declaration of founded complaint, a sanction and/or a measure concerning the accused is incorporated in a closed envelope in the personal file and may only be opened on the Rector's authority.
6. The Board of Directors will share their decision regarding the measures to be taken, in writing and well-reasoned, with the complainant, the accused, de Complaints Committee and the involved confidential adviser(s).

Article 14 Registering a complaint

1. Only the administrative secretary has access to the Complaints Committee's files.
2. On request of members of the Complaints Committee, the complainant or the accused, the secretary will permit perusal of the file concerned in his presence.
3. The files concerning the complaints procedure will be saved for up to ten years after settlement in the (locked) archive of the secretariat of the Complaints Committee. After this, the file is to be destroyed by the administrative secretary of the committee.

Article 15 Objections and appeal

1. Against the decision referred to in Article 13, a written and well-reasoned objection may be made to the Board of Directors.
2. To the decisions of the Board of Directors as referred to in Article 13, the Cao (Collective Labour Agreement) and the regulation '*Commissie van beroep*' apply.

Chapter 5 Final provisions

Article 16 Final provisions

1. If a complaint is directed at a member of the Board of Directors, wherever 'Board of Directors' is mentioned in this regulation, it is to be replaced by 'Supervisory Board'.
2. This regulation has been established after obtaining approval from the Staff Council and with recommendations from the Student Council.
3. This regulation can be cited as 'Harassment Regulation'.
4. This regulation comes into effect on 1 January 2010. The Complaints Regulation that was valid before that date has been withdrawn on that same date.

Appendix 1 Regulation Confidential Advisers

Article 1 Appointment of confidential advisers

1. The Board of Directors appoints confidential advisers who satisfy the competence profile for the position of confidential adviser.
 - a. a male or - preferably – a female employee of the university (internal confidential adviser);
 - b. a male or female person, not employed or standing in any relation to the university (external confidential adviser).
2. The confidential adviser answers directly to the Board of Directors concerning his/her activities.
3. The confidential adviser is to have followed the appropriate training and is to take part regularly in training programmes.

Article 2 Authority of confidential advisers

1. The confidential adviser is, taking into account the necessary confidentiality and as far as necessary for the implementation of his/her task, authorized to obtain information concerning alleged harassment and of the circumstances in which this took place.
2. The confidential adviser is authorised to obtain advice or assistance from experts if necessary, and within reason, for the treatment of the report.
3. Persons who have been approached in this context have a confidentiality obligation.

Article 3 Legal protection of confidential advisers

1. The Board of Directors ensures that confidential advisers can fulfil their position without jeopardising their position at the university.
2. In case of special facts or circumstances which could hamper an impartial formation of judgement, a confidential adviser can refer the reporter, complainant or accused to another confidential adviser.

Article 4 Tasks of confidential advisers

1. A confidential adviser has the task of:
 - a. acting as registration and complaint point for persons who have come up against harassment or have been witnesses to this.
 - b. caring for and, if necessary, referring the reporter to institutions offering psychological and/or social care;
 - c. examining possible solutions with the reporter and, on request, assisting and advising the complainant/reporter to put an end to the harassment. If the reporter cannot put an end to the harassment him/herself, the confidential adviser can try to bring about a solution together with the person in charge and the accused;
 - d. submitting, if possible, proposals to the person in charge before a complaint is lodged;
 - e. on request of the person wishing to lodge a complaint, supporting them in lodging a complaint with the Complaints Committee or, if necessary, reporting the matter to the police.

f. on request, guiding or arranging guidance for the accused

2. It is not permitted for a confidential adviser to guide the complainant and the accused at the same time. The confidential adviser must refer the other party to a colleague confidential adviser.

3. The confidential adviser does not act on behalf of the complainant or accused without their approval.

4. Policy advice:

The confidential adviser is authorized to give advice, on request or unasked, to the Board of Directors concerning the university policy on harassment.

5. Report of activities:

The confidential advisers will write an annual report for the Board of Directors in which is incorporated an anonymous list of the number of reports and the nature thereof. The report may also contain recommendations.

Appendix 2 Regulation Complaints Committee

Article 1 Appointment Complaints Committee

The Board of Directors will join an external Complaints Committee.

Article 2 Regulation

The regulation used by the external Complaints Committee applies as the regulation for dealing with complaints from the university community.

Explanatory notes on Harassment Regulation

What to do in a case of harassment

In a case of harassment, the person concerned can deal with the situation in various ways. In many cases, the person involved is able to put an end to the harassment or undesirable behaviour him/herself. The person concerned can address the person showing undesirable behaviour on their behaviour. If so wished, the person in charge or, in the case of a student, the study coordinator can become involved.

Sometimes contact with the perpetrator is no longer feasible, or does not lead to a solution acceptable to both parties. In that case, it is necessary to make extra provisions to put an end to the harassment.

Reporting harassment to a confidential adviser

in this Regulation, provisions are made for a confidential adviser's informal dealing with reports of experienced or witnessed harassment. The job responsibilities of confidential advisers are taking care of those who have reported a case of harassment and supplying guidance in taking steps to end the harassment. The confidential adviser can advise the reporter or complainant on the steps that can be taken and can offer support thereby. The confidential adviser can make contact with persons in the immediate surroundings of the complainant who can help the complainant, such as the person in charge or the study coordinator. In that case, it must be clear to all persons concerned that the confidential adviser acts on behalf of a complainant or reporter.

Persons involved with harassment or undesirable behaviour are most benefited by putting an end to that undesirable behaviour or the prevention of the undesirable behaviour and with the creation of a normal study or work environment. Therefore a report must be made to a confidential adviser before a complaint is lodged.

A complaint involving Harassment to the Complaints Committee

The nature of the behaviour can, however, be such that lodging a formal complaint with the Complaints Committee deserves preference. Also when settling the matter in an informal atmosphere does not lead to the desired results, lodging a formal complaint can be considered. For this reason, provisions have been made for the formal treatment of complaints by the institution of a Complaints Committee.

The Complaints Committee investigates the admissibility and foundation for the complaint by means of hearing the complainant, accused and any witnesses and/or other persons, and can advise the Board of Directors on the measures to be taken. Based on the complaint having been declared founded by the Complaints Committee, the Board of Directors can impose sanctions or take certain measures. The measures that can be taken by the Board concerning personnel, are based on the individual employment agreement, the CAO and the definitions concerning the employment contract in the *Burgerlijk Wetboek* [Civil Code].

Measures which can be taken by the Board concerning students are:

- a. a warning, be it verbal or in writing;
- b. a refusal or abrogation of the registration;
- c. whole or partial denial of access to building and university premises for a maximum of a year.

On the grounds of Article 56 of the Statute, the Teaching Staff Meeting must approve measures taken against students.

If a complaint has been declared unfounded, the Board of Directors can, of course, also take any necessary measures, such as measures against the complainant and/or measures to rehabilitate the damaged reputation of the accused as far as possible. Also in the case of a complainant retracting the complaint, the Board of Directors can take measures to clear the name of the accused.

This regulation was compiled under the assumption that treatment by an independent Committee makes it easier for a complainant to lodge a complaint than when the complaint is dealt with by the Board of Directors.

If the harassment involves indictable offences, it is recommended to report this to the police. This does not mean that internal treatment should be abandoned because next to a possible criminal procedure, the Board of Directors as the employer or responsible body shall have to take certain measures, for which the outcome of an internal, independent investigation can be relevant.

Contact data confidential adviser

Internal confidential adviser:

Myriam Klinker - De Klerck, lecturer of New Testament

Telephone number in Kampen: 038-4471734

Telephone number private: 038-7502762

Cell phone number: 06-18040608

Present in Kampen: Monday, Tuesday and Thursday

Room 13, (Broederweg 19)

External confidential adviser:

Wilfred de Vries, General Director of the Educative Academy of VIAA
Vocational University

Telephone number (cell phone): 06-20594989

Contact data External Complaints Committee:

National Complaints Committee for Christian primary, secondary, vocational and adult education, established by the Executive Board of the organisation for Christian Education in Voorburg.

The National Complaints Committee deals with complaints concerning behaviour and decisions, for example of students, staff members, governing board or competent authority, within Primary, Secondary and Higher Education and Vocational and Adult Education.

Address

Postbus 694

2270 AR Voorburg

Telephone: (070) 386 16 97

Fax: (070) 348 12 30

info@klachtencommissie.org

For the external Complaints, Dispute and Objection Committees' website, please see:

www.kringenrechtspraak.org