



BODYMIND OPLEIDINGEN

Complaints Procedure Undesirable Behaviour

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

Every student has the right to study in a safe environment. Every employee has the right to work in a safe environment.

This set of regulations provides a procedure for the reporting of a complaint with a Confidant(e) or the submitting of a complaint to a Complaints Committee for situations in which this safety is breached.

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Definitions

Article 1

Undesirable behaviour:

Sexual Intimidation

Unwanted sexual advances, requests for sexual favours or other verbal, nonverbal, written or physical conduct of a sexual nature, which the Complainant considers an unjustified infringement of their intimate life.

Discriminating Behaviour

Behaviour in which similar cases are treated unequally on the grounds of religion, philosophical or political beliefs, race, gender, sexuality, physical or mental disabilities or any other grounds whatsoever.

Aggression/Violence/Bullying

Incidents in which a student or employee are physically or psychologically harassed, attacked or threatened.

Abuse of Power

Abuse of Power takes place when a student or employee uses his/her position and power in an intimidating, manipulative or violent manner, at the costs of the person with whom he/she has a relationship of trust/authority. This kind of abuse can include the handling, ignoring or taking of a decision.

The undesired behaviour has to have taken place under circumstances that are directly connected to the attending of Bodymind Opleidingen training or to the performance of work for the institution.

Board Circle: managerial body of Bodymind Opleidingen, deals with business operation, budget and vision.

Employee: A person who works for Bodymind Opleidingen on the basis of a direct employment contract with the institution, on a temporary or secondment contract, on a freelance contract or otherwise.

Student: A person who wishes to make use of, makes use of or has made use of Bodymind Opleidingen's services.

Complainant: A student or employee of Bodymind Opleidingen who has experienced undesirable behaviour and has reported this to the Confidant(e) and/or has submitted a complaint to the Complaints Committee.



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Defendant: The party whose behaviour has been reported or complained about.

Confidant(e): Member of Board Circle, designated as a point of contact for students and employees who have experienced undesirable behaviour.

Mediator: Independent, external mediator, hired by Bodymind Opleidingen.

Complaints Committee: The committee appointed by Bodymind Opleidingen's Board Circle to take responsibility for the institution's complaints procedures.

Secretary: facilitates the Complaints Procedure on a secretarial level, provides support to the Confidant(e), Mediator and Complaints Committee, but is not a member.

Report: A student or employee's report of undesirable behaviour to the Confidant(e). A report can be verbal or written, but is never anonymous.

Complaint: A complaint made by a student or employee about undesirable behaviour. A complaint describes the content, date and/or period of the offensive behaviour, as well as the names of the Complainant and the perpetrator.

Mediation: arbitration of the conflict by a Mediator, who guides the parties involved to reach a suitable joint agreement or solution, which all parties deem satisfactory.

Complaints Procedure: the investigation and assessment of a complaint, resulting in a verdict and potentially sanctions proposed to the Board Circle as measures that should be taken in response to the complaint.

Temporary Provision: In cases in which immediate intervention is required to ensure the wellbeing of the Complainant, the chairman of the Complaints Committee can make an urgent request of the Board Circle, whether on the request of the Complainant or the Defendant, before the Complaints Committee's assessment has taken place.



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Objective of the Complaints Procedure

Article 2

To provide the opportunity to report undesirable behaviour, and to submit, investigate and settle complaints about undesirable behaviour.

The procedure also seeks to protect the interests of Complainant and Defendant during the investigation and settlement of the complaint.

Principles

Article 3

These regulations are based on the following principles:

Bodymind Opleidingen offers the opportunity to report to and be received by a Confidant(e) who offers support;

If the Confidant(e) and/or Complainant are in favour, Bodymind Opleidingen offers the possibility of mediation with the appointment of a Mediator;

The Complaints Committee offers the possibility of a non-biased assessment of the complaint, resulting in a verdict about the submitted complaint and, in case necessary, sanctions recommended to the Board Circle delineating the measures that should be taken as a result of the complaint.

The Complainant will incur no costs throughout the Complaints Procedure.

Both parties have the right to legal counsel or representation on own account during the Complaints Procedure.

The complaint is settled by following the established procedural guidelines.

Both parties have the right to be heard in accordance with the adversarial principle.

Both parties have the right to access all documents submitted during the procedure.

Personal details will be handled and registered with care and confidentiality. The Confidant(e), Mediator, Secretary and members of the Complaints Committee are obliged not to disclose any of the information they become privy to throughout the Complaints Procedure.

The Complaints Committee does not release a verdict about liability.

Article 4

If circumstances do not allow for the regulations stipulated in this Complaints Procedure to be applied, the Board Circle will decide which procedure must be followed by the Confidant(e), Mediator and the chairman of the Complaints Committee instead, provided that each party is in agreement with the proposed procedure.

Article 5

Confidant(e)

The Board Circle assigns a Confidant(e). The Confidant(e) will perform his/her work without interference or consultation and in strict confidence, from all other parties including the Board Circle.

Confidant(e)'s responsibilities:

Works autonomously as a point of contact for all students who have a complaint about undesirable behaviour;

All communication between Confidant(e) and Complainant are strictly confidential;

Provides primary care when incident has taken place;

Assists Complainant in investigating whether a solution can be reached via informal means;

Investigates whether independent mediation is an appropriate measure for reaching a solution;

Provides information and advice on the different options offered by the Complaints Procedure;

If necessary, refers to other (caregiving) authorities;

If the situation requires, alerts the police and assists throughout the reporting process;

The Complainant must consent to all steps taken by the Confidant(e) in fulfilling his/her role.

Keeps an anonymous record of the nature and magnitude of the complaints that he/she has received, the process by which they were handled and their verdicts.

The Confidant(e) can provide solicited and unsolicited advice to the Board Circle with regards to undesirable behaviour policies.

Article 6

Mediator

The Board Circle will appoint an external, independent Mediator, who will work to assist both parties in reaching a satisfactory solution to the complaint.

Mediator's responsibilities:

Mediation can only take place if and when both Complainant and Defendant have consented;

The Mediator supports both parties in reaching a satisfactory solution;

Mediation preferably takes place in a joint discussion. In case necessary, the Mediator can converse with the parties separately;

When Complainant and Defendant have consented to mediation, they will be invited for a discussion with the Mediator within four weeks;

In consultation with the Mediator, Complainant and Defendant may be assisted by counsel of their choice during the mediation discussion;

The Defendant is invited to provide a written reaction to the complaint before the mediation discussion;

Complainant and Defendant receive the notice of complaint, the Defendant's reaction to it and all other information submitted to the Mediator by both parties;

The mediation will be recorded in a report, that will be presented to parties within two weeks of the mediation discussion. This report will document the result of the mediation and the agreements reached. Upon approval from the parties, the report will be adopted;

If the result of the mediation is not to the Complainant's satisfaction, he/she can decide to submit their complaint to the Complaints Committee;

The Mediator is assisted by the Secretary of the Complaints Committee;

Unless parties have explicitly granted permission for them to, the Mediator does not share information with third parties, including the Board Circle and the Complaints Committee;

Unless agreed otherwise, parties are required not to notify third parties of the course of the mediation.

Artikel 7

The Complaints Committee

- a. Comprises a minimum of three and maximum of five members and two substitute members. The members are nominated by the Board Circle;
- b. The Committee is made up of multidisciplinary members, to ensure that an independent, professional and carefully considered verdict of the complaint can be reached;
- c. The Chairman is independent in the sense that he/she is in no way related to or has been related to Bodymind Opleidingen or its professional associations, and is preferably a lawyer or expert in the field of complaints management;
- d. The members function without interference or consultation;
- e. Chairman and members can be assigned to the Committee for a period of three years, and can be reassigned twice;
- f. A member is excluded from participation in the Committee if the complaint regards him/her or if he/she is too closely involved with either Complainant or Defendant. Every member of the Committee has the right to be excused from serving as a member;
- g. Membership ends:
 - When the legislative term expires
 - When the member in question decides
 - In case of death
 - A member is dismissed by the Board Circle due to dysfunction

Authority of the Complaints Committee

As part of the processing of a complaint, the Committee has the right to receive any particulars from the Defendant, as long as the requests made abide by confidentiality laws.

The Complaints Committee is permitted to consult internal and external experts. During the investigation of a complaint, the Complaints Committee is authorised to enter designated work and study areas and to converse with Board Circle, employees, students and other potentially involved individuals.

The Complaints Committee can provide solicited and unsolicited advice to the Board Circle with regards to undesirable behaviour policies.

Submitting a complaint

Article 8

A written complaint must be submitted to the Secretary of the Complaints Committee. The complaint should contain the Complainant's contact details, the name of the Defendant and the nature and content of the complaint;

The Secretary sends the Complainant a confirmation of receipt within five days of receiving the complaint. The confirmation of receipt outlines the different options offered by the Complaints Procedure:

- Contact with a Confidant(e);
- Mediation by a Mediator;
- Presentation to the Complaints Committee.

If requested, the Secretary can provide information about reaching the Confidant(e), or assist in making contact with him/her;

The Defendant receives a statement of the complaint and is given the opportunity to submit a written reaction to it within two weeks;

The Complainant is required to specify in which way he/she would like to proceed according to the Complaints Procedure within two weeks of receiving the receipt of the complaint from the Secretary.

The Secretary takes responsibility for the follow-up of the complaint, within five working days of receiving the Complainant's procedural choice.



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- In case the Complainant requests contact with the Confidant(e) at this stage, the Secretary can provide information about reaching the Confidant(e), or assist in making contact with him/her;
- The Secretary sets the mediation or processing of the complaint by the Complaints Committee in motion;

The absence of a written reaction to the complaint within the given period has no suspensory effect on the handling of the complaint;

No further action

Article 9

The Complaints Committee is authorised not to handle or to terminate handling of a complaint when:

A complaint with the same content, by the same Complainant, is still being handled or has already been handled by the Complaints Committee;

The complaint does not meet the definition of a complaint of undesirable behaviour as stipulated in Article 1;

The Complainant is not entitled to make a complaint.

Processing by the Complaints Committee

Article 10

A complaint is processed by a Hearing Committee, which is appointed by the Chairman. It will be made up of three members, one of whom will be the Chairman;

The Chairman will appoint such members to the Hearing Committee that will ensure a professional and carefully considered verdict;

Examination of the complaint will take place in a closed hearing;

The Hearing Committee can request anyone provide information that concerns the subjects of the complaint;

As a general rule, parties are heard in each others' presence. The Hearing Committee may choose to hear parties separately only if the direct confrontation between the parties would be too stressful for the Complainant;

The Complainant and the Defendant are given the opportunity to provide an explanation with regards to the subject(s) of the complaint;

During the Complaints Procedure, the Hearing Committee offers the Complainant and the Defendant insight into and copies of the documents that the verdict shall be partially based on;

The Complainant and the Defendant can choose to be assisted by a counsel of their choice throughout the processing of the complaint.

Article 11

a. Upon the Complainant or Defendant's request, or at their own initiative, the Hearing Committee can call upon witnesses or experts to provide information about the facts and the circumstances in which the undesirable behaviour took place.

b. If the Hearing Committee decides to call upon witnesses or others, the Complainant and Defendant will be informed as such, unless this puts the wellbeing of the witness or those involved in the complaint at risk.

c. The witness or person shall be heard in the presence of both Complainant and Defendant, unless one of the parties puts forward compelling arguments to proceed otherwise.

d. Every witness or person heard is required to provide the requested information, provided that they are a Bodymind Opleidingen student or employee.

e. If called to bear witness, every person can provide a reasoned request to be excused from bearing witness.

Termination of the complaint

Article 12

A complaint will no longer be handled if the Complainant revokes the complaint or if the Complainant states that a satisfactory solution to the complaint has been obtained via deliberation with the Confidant(e) or via mediation. The Complainant can revoke the complaint in writing or verbally by indicating that he/she requires no further handling of the case. If a complaint will no longer be handled for this reason, the Secretary will inform the Defendant as such in writing.

Assessment of the complaint

Article 13

The Complaints Committee will reach their verdict without interference or consultation.

The Complaints Committee can conclude that the complaint is: not admissible, (partially) justified or (partially) unjustified.

A complaint is declared justified:

- If the decisions or behaviour of the Defendant breach a lawful regulation, the profession's applicable standards and codes and/or Bodymind Opleidingen's qualitative requirements.
- If, all relevant interests and circumstances considered, the Defendant's decisions or behaviour must be deemed unreasonable or unfair.

A copy of the reasoned verdict of the complaint is sent to the Complainant and the Defendant as soon as possible or within three months of the conclusion of the Complaints Procedure.

The Committee can extend the decision period if circumstances prevent a verdict from being reached within three months. The Complainant and Defendant are given a reasoned, written notification of the extension.

The Chairman of the Board Circle receives a copy of the verdict and the advised sanctions. Such advice can include legal, judicial and/or organisational measures. In the event of dismissal, recommendations for rehabilitation can be presented.

Within one month of receiving the verdict and recommended sanctions, the Board Circle informs the Complainant, Defendant and the Complaints Committee in writing which recommended sanctions they are applying in response to the verdict and how.

If they are unable to do so within this timeframe, they will provide parties with a reasoned notification as such and will respond to the verdict within a maximum of two months.

Sanctions

Article 14

Depending on the specific situation and the nature and severity of the complaint, measures can be of both a preventative and correctional nature, or a combination of both.

The following measures can be taken for students:

Verbal warning

Written warning

Suspension

Refusal of access to buildings for one year

In serious cases further enrollment can be refused

In the case of a verbal or written warning there is the possibility of a transferral to another group.

In accordance with the CAO (Dutch Collective Labour Agreement) and the signed contractual agreement, the following disciplinary measures can be taken for employees:

Written warning

Transfer

Suspension for a maximum of three months, with the proviso that this period can be extended once by a maximum of three months if the grounds for the suspension continues

Dismissal or termination of the contractual agreement.

Appeals

If either party are not in agreement with the settlement of the complaint, both Complainant and Defendant can appeal the verdict with the Complaints Committee of the Dutch Association for Psychotherapy (NAP);

Bodymind Opleidingen recognises the verdict from the Appeals Committee as advancedly binding. Any instructions from this Committee will be implemented within three months.

Duty of Care

When a student or employee becomes aware of a situation in which undesirable behaviour is or has taken place, and he/she can take measures to remedy the situation, he/she is obliged to implement these measures.

The Board Circle will regularly inform students and employees of this Complaints Procedure and Duty of Care.

Recordkeeping

Article 14

After the conclusion of the Complaints Procedure, the documents regarding the complaint are archived by the Secretary in such a way that the privacy of those parties involved is protected. The manner in which the details of the complaint are filed complies with the laws stipulated in the Data Protection Act.

The documents are kept on file for seven years;

The Secretary files a yearly, anonymous report on the complaints received, the procedural methods used and any sanctions made;

Information about a complaint discussion or complaint procedure is not recorded in a student's file.

Other conditions

Article 15

These regulations are available for inspection through the Board Circle and the Management Circle.

The existence of the Complaints Procedure is communicated on the Bodymind Opleidingen website.

Article 16



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These regulations are established and can be altered by the Board Circle, pending approval.

Preceding the above, changes to the regulations must first be presented to the Board Circle.

Article 17

These regulations shall enter into force on 1st May, 2016. These Terms and Conditions were drafted in Dutch and have been translated into English. In the event of any discrepancy between the Dutch and translated text, the Dutch text shall prevail and shall be used to resolve any doubts arising in respect of interpretation and/or application.