

HOTELSCHOOL THE HAGUE REGULATION ON SEXUAL INTIMIDATION AND AGGRESSION

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The goal and policy of the SIAG complaint regulation

Undesirable behaviour is behaviour whereby either verbally, non-verbally or physically one person harms the personal integrity of another person by, for example, bullying, discrimination, sexual intimidation, racism, aggression and violence, establishing his authority or popularity at the cost of the other person, or by intentionally and deliberately lodging a false complaint.

It does not matter whether or not it was the perpetrator's intention to harm the other person. It is the subjective perception of the victim that is key. This subjective perception is examined against the question whether or not it would be reasonable to expect that someone else in similar circumstances could have perceived things in the same way. In other words, whether the behaviour of one person is such that it causes the other person to experience a feeling of being pressured or feeling that their privacy has been invaded. It is all about the objectification of the perception of the victim in legal terms.

Undesirable behaviour can happen anywhere and at any time; during (work) meetings, during lectures or individual tutoring sessions, during placements, in canteens, in the corridors, offices and so forth. Anyone (sometimes unintentionally) can be guilty of it, and it can happen to anyone. This does not mean that undesirable behaviour belongs in a good work and study environment. As staff and students together determine the atmosphere in this environment, everyone is part of it.

The objective of the policy on (sexual) intimidation and aggression is to prevent and/or combat undesirable behaviour at Hotelschool The Hague. After all, the Hotelschool wants to offer its staff members and students a safe and inspiring work and learning environment.

A (school) organisation such as Hotelschool The Hague, is an institution where people work closely together, and which can be expected to discuss the topic of undesirable behaviour openly and pay attention to safe social intercourse between people, in particular between men and women.

If those concerned can not find a mutual solution, a regulation that lays down individual rights and precisely states what can be done officially within the organisation is needed. The regulation below provides that.

Summary:

Hotelschool The Hague policy on the subject of undesirable is based on the application of the following premises:

- undesirable behaviour will not be tolerated;
- staff and students are given maximum space to file a complaint;
- filing a complaint may not have adverse consequences for the complainant;
- all information will be treated with the utmost confidentiality;
- all formal complaints will be objectively and thoroughly investigated by an independent Complaints Committee;
- the school guarantees that fitting, corrective measures will be taken as soon as possible against anyone in the organisation who is guilty of undesirable behaviour.

CHAPTER I. GENERAL

Section 1. Definitions

In this regulation the following definitions are given:

- a. **Hotelschool:** Hotelschool The Hague in The Hague and Hotelschool The Hague in Amsterdam
- b. **Undesirable behaviour:**
 - (sexual) intimidation and aggression: verbal, non-verbal, written or physical (violence) expressions that are perceived by the complainant to be a violation of his/her personal privacy, and of which the accused was aware or at least should have understood;
 - discriminatory behaviour: behaviour through which the complainant is not given the same treatment as others, on the basis of religion, beliefs, political beliefs, race, gender, sexual orientation, physical and mental handicap or on any other grounds;
 - aggression/violence/(digital) bullying/pestering: incidents in which a complainant is intimidated, threatened or attacked either mentally or physically.
- c. **Reporting:**
informing a confidential adviser about undesirable behaviour by a member of staff or student of the school. A report may, but does not necessarily have to lead to opening a formal procedure.
- d. **Informer:**
the person who has reported the undesirable behaviour to the confidential adviser. This might be, but is not necessarily, the person who has been the victim of such behaviour.
- e. **Complaint:**
a complaint concerning undesirable behaviour that is reported to the confidential adviser or that is submitted to the Complaints Committee by the person who has been directly affected by this behaviour.
- f. **Complainant:**
the person who submits a formal complaint about undesirable behaviour to a confidential adviser or to the Complaints Committee. The complainant is either a (former), or (former) student as specified in the WHW. (Dutch Tertiary Education Act)
- g. **Accused:**
the person about whose behaviour a complaint has been made to the confidential adviser or that is submitted to the Complaints Committee;
- h. **Confidential adviser:**
a person as described in article 4;
- i. **Complaints Committee:**
a complaints committee for undesirable behaviour, as described in article 10;
- j. **CAO-HBO:**
the current *Collectieve Arbeidsovereenkomst for the Hoger Beroepsonderwijs* (collective labour agreement for higher education) or for the *Onderwijs begeleidingsdiensten* (schools advisory service);
- k. **Workday:**
Monday to Friday, with the exception of Christian and/or recognised national holidays and the days designated by Hotelschool The Hague as compulsory holidays.
- l. **RAC:**
the Representative Advisory Council of Hotelschool The Hague.

CHAPTER II. REPORTING UNDESIRABLE BEHAVIOUR, HANDLING OF A COMPLAINT

Article 2. Reporting behaviour to confidential adviser

1. All (former) employees or (former) students of Hotelschool The Hague who are confronted with undesirable behaviour in the work or study environment, as well as anyone else who has encountered such behaviour by a student or employee of the school, may report it to a confidential adviser. In this article by (former) student we mean (former) students of the programme.
2. Reporting undesirable behaviour should be done as soon as possible after the event, and always within two months.
3. It may be reported verbally or in writing, but never anonymously. In the case of a verbal report the confidential adviser will ask the person making the report to sign a protocol paper, in which is stated a minimum of the following details: time and place of the event, the name of the complainant, and the name of the perpetrator,.

Article 3. Filing a complaint with the Complaints Committee

1. All (former) employees or (former) students of Hotelschool The Hague who are confronted with undesirable behaviour in the work or study environment, as well as anyone else who has encountered such behaviour by a student or employee of the school, may file a complaint with the Complaints Committee. In this article by (former) student we mean the (former) students of the programme as well as (past) volunteers, trainees, and the like.
2. Filing a complaint should be done as soon as possible after the event, and always within two months.
3. Filing a complaint is always done in writing and never anonymously.
4. If the seriousness of the complaint warrants it, the Complaints Committee will inform the Board of Directors or the manager of the person concerned, in confidence, that a complaint has been filed against the person in question.
5. The Complaints Committee can be reached via the following address: Complaints Committee Undesirable Behaviour, Brusselselaan 2 The Hague

Article 3a. Alternatives

That the school has a confidential adviser and a Complaints Committee do in no way impede anyone from either contacting the proper authorities of the Hotelschool directly about his complaint or choosing to start an external prosecution procedure.

CHAPTER III. PROCEDURE IN THE CASE OF A CONFIDENTIAL ADVISER

Article 4. Confidential adviser

The Board of Directors appoints two confidential advisers within Hotelschool The Hague for the staff (one female and one male) two confidential advisers for students.

Article 5. Duties of the confidential adviser

1. The duties of a confidential adviser include:
 - a. registering the report as defined in article 1 of this regulation;
 - b. giving support and advice to the person making the report;
 - c. trying to find a solution for the problem(s) that has/have been indicated;
 - d. for as far is necessary and desired by the party concerned, referring him/her to the specialised help services
 - e. to assist the complainant, at his/her request, with the filing of a complaint with the Complaints Committee;
 - f. maintaining contact with the complainant in order to see whether filing a complaint does not have consequences for the complainant and to make a report on this matter to the Board of Directors.
2. On the basis of his/her expertise and integrity the confidential adviser may, in accordance with article 12 subsection 4b and subsection 5 of this regulation, in the interests of the organisation, file a complaint with the Complaints Committee.
3. The confidential adviser advises the Board of Directors with or without being asked on the policy of the Hotelschool on the subject of combating undesirable behaviour and its consequences.
4. Any steps taken by a confidential adviser in dealing with a report must be with the prior permission from the complainant.

Article 6: Authorisation of the confidential adviser

The confidential adviser is authorised to:

- a. conduct interviews with the person who made the report, with person who is the object of the report as well as with third parties who may be expected to be able to provide additional information. The confidential adviser acts from the viewpoint of looking after the interests who is the victim of the undesirable behaviour.
- b. consult (one of the) other confidential advisers and/or the Complaints Committee about how to deal with a report.

Article 7: Archive of the confidential adviser

1. Each confidential adviser maintains an archive of the complaints that are reported to him and how they were dealt with.
2. Only the confidential adviser concerned and the Complaints Committee have access to this archive. All data concerning a complaint are destroyed after a period of five years.

Article 8: Annual report of the confidential adviser

The confidential adviser keeps an anonymous registry of the nature and number of cases he deals with and the achieved results. This data is included in a report that is appended to the annual report mentioned in article 19 of this regulation. This annual report is public.

Article 9: Facilities

1. The confidential adviser, at the request of the person who has made a report, an appointment with him/her, and ensures that this is made known within the school.
2. The Board of Directors undertakes to provide facilities that are necessary for the proper execution of the confidential adviser's duties, such as a reasonable amount of time and an interview/consultation room. Further the Board of Directors will provide adequate information and extra training.

CHAPTER IV. COMPLAINTS COMMITTEE PROCEDURE

Article 10: Appointment and composition

1. Hotelschool The Hague will set up a Complaints Committee, consisting of three members, of whom at least one is female and one male.
2. The composition of the committee is such that its members possess sufficient knowledge and experience of the psychosocial and legal aspects of undesirable behaviour and complaints handling.
3. The Complaints Committee appoints one of its members as chairperson.
4. The Complaints Committee may request a minutes secretary.
5. The Board of Directors appoints the members of the Complaints Committee and the deputy members for a period of three years. The members and deputy members are eligible for reappointment.
6. In the case of a lengthy illness of one of the members of the Complaints Committee a replacement will be found as soon as possible.

Article 11: Withdrawal

1. A member of the Complaints Committee may be withdrawn, or he/she may withdraw him/herself if:
 - a. he/she is involved by virtue of his/her position in the case, or belongs to the organisational unit to which a complainant or the person accused belongs;
 - b. the complainant or the accused person are related to each other either through blood or marriage or whose relationship with each other is such that it might impede freedom of judgement;
 - c. this member has been involved in the case before.
2. The other members of the Complaints Committee decide as quickly as possible whether withdrawal is appropriate.

Article 12: Duties and powers of the Complaints Committee

1. The Complaints Committee takes cognisance of complaints, investigates whether they involve undesirable behaviour as stated in this regulation and advises the Board of Directors about what measures should be taken.
2. The Complaints Committee may gather information from anyone who can provide details about the circumstances under which the undesirable behaviour occurred. The members of the Complaints Committee may not be hindered in the gathering of this information. The gathering of this information will extend no further than is strictly necessary for the handling of the complaint.
3. If the Complaints Committee finds cause to, it can instruct both parties to reach a mutual settlement. For this purpose it may appoint a mediator. If a compromise has not been reached within 10 working days the Complaints Committee will finish dealing with the complaint.
4. A complaint may be submitted to the Complaints Committee:
 - a. by the complainant;
 - b. by the confidential adviser, in the interests of the organisation or the interest of the person who has been affected by the undesirable behaviour.
5. One can only speak of a complaint in the interest of the organisation if the complaint is based on a number of complaints about one and the same person, none of which have each been brought separately to the attention of the Complaints Committee by the complainant or complainants.
6. Leaving intact what is stated in article 3 subsections 2 and 3, a complaint contains at least a written description of the time, the nature and the place of the challenged act or acts, as well as the identity of the person against whom the accusation was made.

Article 13: Immediate settlement and appeal

1. The chairperson of the Complaints Committee ascertains whether the complaint that is filed fulfils the requirements stipulated in article 12 subsection 6 of this regulation, and if necessary, provides the complainant with the opportunity of rectifying any shortcomings. In the case of article 12 subsection 4 b and subsection 5 the confidential adviser will take action.

2. The Complaints Committee reject the complaint immediately without hearing the parties, if it is of the opinion that:
 - a. the committee evidently not authorised to deal with it;
 - b. the complaint is evidently nonsuited;
 - c. the further handling of the complaint does not seem necessary as it is clearly unfounded.
3. The complainant or, in the case of article 12 subsection 4 b and subsection 5, the confidential adviser may appeal to the Complaints Committee about the decision named in the first subsection, within 14 days after the decision was sent to him/her. The written appeal with reasons must be signed by the complainant or, in the case of article 12 subsection 4b and subsection 5, by the confidential adviser.
4. As a result of the appeal the decision named in the second subsection is no longer valid, unless the committee disallows the appeal or declares it to be ungrounded.
5. If the Complaints Committee is of the opinion that appeal is evidently inadmissible or ungrounded, it will not state that it has been disallowed or is ungrounded without first giving the complainant or, in the case of article 12 subsection 4b and subsection 5, the confidential adviser the opportunity of being heard.

Article 14: Temporary provision

1. If the complainant is suffers serious disadvantage by filing a complaint with the Complaints Committee he/she may ask the chairperson of the Complaints Committee for a temporary provision.
2. After receiving a request in keeping with subsection 1 the chairperson of the Complaints Committee will specify as soon as possible a time and place where the case will be dealt with. Parties will receive written notification. Articles 14 and 15 of this regulation are overeenkomstige application to the request for a temporary provision.
3. The temporary provision may be lifted or modified by the chairperson of the Complaints Committee after he has heard both parties, or at least has summoned them appropriately.
4. The temporary provision expires as soon as the Complaints Committee has made its decision on the main case, as long as no other deadline has been specified.

Article 15: Investigation, listening to both sides

1. The Complaints Committee investigation occurs in closed session.
2. Before listening to what people have to say, the person accused is given the opportunity of submitting his/her written defence. Aforesaid defence must be submitted the Complaints Committee within ten days after the written complaint is received. Not submitting a written defence does not form an impediment to proceeding with the procedure.
3. The Complaints Committee hears the complainant or, in the case of article 12, subsection 4b and subsection 5, the confidential adviser and the person accused separately. The complainant as well as the person accused may call upon the assistance of a (legal) adviser. If complainant or the person accused do not appear at the meeting in person but have a (legal) adviser represent them, this person must have written authorisation. If complainant or person accused, after being appropriately called upon to do so, do not appear at the session and clearly forgo the right to have representation, the committee has the authority to proceed with the session all the same. The confidential adviser may, if she/he is heard as a witness, call upon his/her right to non-disclosure concerning information that has been told the confidential adviser in confidence.
4. A written report is made of each hearing. Each written statement is signed as correct by the person concerned.
5. During the investigation the secretary of the Complaints Committee will keep the complainant as well as the person accused informed regarding how the procedure is progressing.
6. If, for the sake of the investigation, the Complaints Committee needs to view (confidential) documents, secretary of the Complaints Committee will ask for the Board of Directors for their permission.
7. If the complaint is withdrawn during the investigation, the Complaints Committee will nevertheless continue with its investigation, unless the person accused indicates that he/she agrees with the withdrawal of the complaint.
8. When the investigation is concluded the accused person is given one last chance to respond, either verbally or in writing.

Article 16: Hearing witnesses and experts

The Complaints Committee in closed session, as stated in article 15, can hear witnesses and other persons involved who can provide information about the circumstances in which the undesired behaviour occurred, as well as hearing experts.

Article 17: Conclusion and advice

1. The Complaints Committee makes a decision as soon as possible, and within 20 days after the investigation has ended.
2. The conclusion is underpinned and may:
 - a. declare the Complaints Committee to be non-competent;
 - b. declare the complaint to be inadmissible;
 - c. disallow the complaint;
 - d. disallow the complaint as a whole or in part.
3. If the conclusion and decision are as intended in subsections 2a, 2 b or 2 c, then the conclusion is communicated only to the complainant and the person accused.
4. If the conclusion contain a decision that a complaint is wholly or partly legitimate, then the Complaints Committee, if it so desires, can make a well-reasoned recommendation to the Board of Directors about what measures should be taken against the person accused. The conclusion and recommendation are sent to the Board of Directors and parties concerned. If a member of the Board of Directors is accused, the conclusion and recommendation are sent to the Board of Trustees of the Hotelschool.
5. The Complaints Committee strives for unanimity. If the Complaints Committee turns out to be unable to arrive at a unanimous decision. The Complaints Committee pronounces a unanimous judgement.

Article 18: Measures

1. The Complaints Committee may advise the Board of Directors, if it concerns an employee of the Hotelschool, to:
 - a. give a written reprimand;
 - b. impose a suspension;
 - c. give him/her different lessons;
 - d. dismiss him/her.
 - e. institute criminal proceedings.
2. The Complaints Committee may advise the Board of Directors if it concerns a student or participant in a course at the Hotelschool, to,
 - f. give a written reprimand;
 - g. impose a suspension;
 - a. place him/her in a different group
 - b. refuse him/her admittance to the buildings and grounds belonging to the school for a maximum period of 12 months.
 - c. annul the educational contract on the grounds of default,
 - d. institute criminal proceedings.
3. If a member of the Board of Directors is accused, the conclusion and recommendation are sent to the Board of Trustees of the Hotelschool.

Article 19: Archive and annual report Complaints Committee

1. The Complaints Committee maintains a registry of complaints and how they were dealt with for the archive of the Complaints Committee.
2. Only one member of the Complaints Committee is allowed access to this archive. All details about a complaint are destroyed after five years.
3. The Complaints Committee also keeps an anonymous register of the nature and scope of the complaints dealt with by the Complaints Committee, and includes it in the annual report by the Complaints Committee that is written for the Board of Directors. This annual report is public.

CHAPTER V. MEASURES BY THE BOARD OF DIRECTORS

Article 20: Decisions by the Board of Directors

1. If circumstances are such that, in the opinion of the Board of Directors, no delay can be tolerated, the Board of Directors can take measures before the Complaints Committee has made a pronouncement.
2. In compliance with what is stated in chapter S of the CAO-HBO and in article 7.57h and 7.59 subsection 5 subsection 2 of the WHW, the Board of Directors will make as quickly as possible, and always within 30 days, a well-founded decision based on the advice/recommendations they have received.
3. The Board of Directors informs the complainant, the accused person, the Complaints Committee and, if applicable, the confidential adviser concerned, about the decision as soon as possible and always within 30 days. If the Board of Directors decides to report a criminal offence, the accused person always receives written, well-reasoned notification.
4. A decision by the Board of Directors as described in article 18 subsection 1 of this regulation will be included in the staff member's file.

Article 21: Appeal

Staff members and students may, in compliance with what is stated in article 4.7 WHW and chapter S of the CAO-HBO file an appeal against a decision of the Board of Directors as described in the previous article with the Appeal Committee.

Article 22: Evaluation

A twice-yearly evaluation of the complaints regulation on undesirable behaviour will be conducted. This evaluation, that will be done by the Board of Directors and heard by the Complaints Committee, is and based on the annual reports of the Complaints Committee and of the confidential advisers.

Article 23: Arbitration

In the case of differences about either the interpretation of this regulation, or matters that do not fall within the scope of this regulation, the Board of Directors will decide, after having heard the Complaints Committee and the confidential advisers.

Article 24: Official title

This regulation may be referred to as: Hotelschool The Hague Complaint Regulation for Sexual Intimidation and Aggression

Article 25: Date of commencement

This regulation will be effective as of 1 May 2007.

Article 26:

The regulation was passed in April 2007 by the Board of Directors with the approval of the Representative Advisory Council.