



## Staff Ombudsman Regulations

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### Article 1: Definitions

1 In these regulations the following definitions apply:

- a. administrative body: the bodies referred to in the Higher Education and Academic Research Act [*Wet op het hoger onderwijs en wetenschappelijk onderzoek*] (WHW);
- b. competent authority: the administrative body authorised under the Executive and Management Regulations;
- c. objection or appeal: the statutory right of a person who is affected by the investigation to submit an objection or an appeal;
- d. Ombudsman: someone who is independent of the administrative body and who, whether or not on his/her own initiative, investigates reports or concerns about a single instance or a pattern of unacceptable behaviour, arising through action or inaction and leading to a socially unsafe situation, and advises the administrative body on the matter;
- e. staff member: an employee as referred to in the Collective Labour Agreement of Dutch Universities (CAO NU), temporary staff, interns, volunteers and other persons who carry out duties for the university;
- f. person making the report: a staff member and/or representative advisory body, or the union representative within the Local Consultative Committee at Leiden University, who has submitted a report to the Ombudsman of a single instance or a pattern of unacceptable behaviour leading to a socially unsafe situation;
- g. ULCN: Universiteit Leiden Community Network.

### Article 2: The Ombudsman

1. The Ombudsman is appointed by the Board of Directors for a maximum of three years; reappointment is possible.
2. At his/her own request or, in the event of general neglect of his/her duties, unsolicited, the Ombudsman may be removed from his/her post by the Executive Board before the end of his/her term.
3. Before the Executive Board appoints or reappoints an Ombudsman, or unilaterally removes an Ombudsman from his/her post, the union representative within the Local Consultative Committee is given the opportunity to advise on the Board's proposed action.



4. Without prejudice to the provisions contained in the second paragraph, the Ombudsman is not subject to any other body within the university as regards the carrying out of his/her duties.
5. The role of Ombudsman is incompatible with any other role within Leiden University.
6. The Ombudsman has a duty of confidentiality as regards the information he/she learns in the performance of his/her duties, to the extent that this is relevant to the case. This duty applies equally to all persons who work for the Ombudsman and to persons who are or have been involved in a specific case. If the safety of staff members, students or the Ombudsman is threatened, the Ombudsman is released from this duty of confidentiality.
7. As soon as it is deemed likely that an Ombudsman will be unable to carry out his/her tasks in the long term, the Executive Board appoints a deputy, subject to (3) and (5).
8. The Ombudsman can, whether on his/her own initiative following a report or based on a reasonable suspicion, initiate an investigation into a pattern of unacceptable behaviour which leads to a socially unsafe situation within an administrative body or at Leiden University and which has been reported to or observed by him/her, subject to Article 5(2);
9. The Ombudsman can, both when asked and on his/her own initiative, submit recommendations to the Executive Board.
10. At least once a year, or more often as either the Ombudsman or the Executive Board deems appropriate, the Ombudsman meets with the Executive Board to reflect on the relevant procedure.

### **Article 3: Person making the report**

1. Any staff member and/or representative advisory body, or the union representative within the Local Consultative Committee at Leiden University, is entitled, either by e-mail or in another written format, to submit a report to the Ombudsman of a single instance or a pattern of unacceptable behaviour leading to a socially unsafe situation within an administrative body or at Leiden University.
2. The provisions contained in (1) also apply in the event that the relevant duties at the university have since ended, but the events took place in the period during which the person making the report was associated with the university.

### **Article 4: Report**

1. The report must include:
  - a. the name and address of the person submitting it;
  - b. the date;
  - c. as clear a description as possible of the instance or pattern of unacceptable behaviour leading to a socially unsafe situation which is being reported, stating which administrative body and/or staff member(s) is/are involved;
  - d. the reason why the person making the report is reporting the instance or pattern of unacceptable behaviour leading to a socially unsafe situation;
  - e. in the case of a written report, the signature of the person making the report;
  - f. to establish the authenticity of the person making the report:
    - either a secure copy of his/her identity document<sup>1</sup> (once authenticity has been established, the copy of the document will immediately be destroyed); or
    - the use of the relevant ULCN e-mail account with the associated password;

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<sup>1</sup> How to make a secure copy of an identity document:

- Ensure that the social security number (BSN) is illegible wherever it appears, including in the numbers at the bottom of the document;
- Write on the copy that it is a copy;
- Write on the copy the name of the organisation or product for which it is intended;
- Write on the copy the date on which the copy is submitted.



2. If the report is submitted in a foreign language and a translation is necessary for the proper processing of the complaint, the person submitting the report is responsible for providing a translation.
3. Receipt of the report is confirmed as soon as possible, and in any case within two weeks, by e-mail or in writing, and the person making the report is informed about the next steps in the procedure.
4. The report may be withdrawn at any time.

#### **Article 5: Decision not to investigate**

1. The Ombudsman can only initiate an investigation if the provisions contained in Articles 3 and 4(1) and (2) have been satisfied.
2. The Ombudsman is not authorised to initiate an investigation in the event that:
  - a. with respect to the behaviour described in the report, it is possible to submit a complaint using the complaints procedure for unacceptable behaviour, or such a complaint could have been submitted and the person making the report did not do so;
  - b. the person making the report is asking the Ombudsman to issue a judgment on the substance of university regulations or policy established by a competent authority, statutory provisions or government policy.
3. The Ombudsman can decide not to initiate an investigation in the event that:
  - a. the complaint is settled amicably;
  - b. the report is manifestly unfounded;
  - c. the interest of the person making the report or the severity of the behaviour is manifestly insufficient;
  - d. the Ombudsman has already issued a judgment on the report;
  - e. the report was not submitted within 12 months following the incident in question;
  - f. the behaviour described in the report resulted in a decision against which an objection or appeal procedure is already ongoing or has been started, and the person making the report has not taken advantage of this opportunity.
4. In the event that the Ombudsman decides, on the basis of (1), (2) or (3), not to initiate an investigation, the person making the report is informed of this as soon as possible and, in the event that the person making the report has already been informed, the administrative body and/or the staff member(s) concerned is/are also informed.
5. In the event that a decision as referred to in (4) is fully or partly based on the fact that the person making the report could take advantage of other ongoing proceedings, the person making the report is informed of this.
6. No objection or appeal may be submitted against a decision not to initiate an investigation as referred to in (4).

#### **Article 6: Procedure**

1. The Ombudsman informs the administrative body or person whose behaviour the report concerns of the substance of the report.
2. Before initiating the investigation, the Ombudsman explores whether the matter could be settled amicably by means of mediation and, if he/she deems mediation a reasonable option, he/she takes the necessary action.
3. In the event that mediation is not deemed a reasonable option, or if mediation has not led to an amicable settlement of the matter, the Ombudsman gives the administrative body and/or staff member(s) mentioned in the report and the person making the report the opportunity to further explain their position, either verbally or in writing and in each other's presence or absence, such to be decided by the Ombudsman.



4. If he/she deems it necessary in order to issue a judgment on the matter, the Ombudsman may also give others the opportunity to be informed about the matter and to make verbal or written statements.
5. The Ombudsman is authorised to request administrative bodies and staff members to provide explanations and to request and read documents which relate to a matter about which a report has been submitted.
6. Administrative bodies and staff members must provide the statements as referred to in (4) and the explanations and/or documents as referred to in (5) within a reasonable time frame, which is established by the Ombudsman.
7. Without prejudice to the provisions contained in (8), the Ombudsman informs the person making the report of the explanations he/she has received and/or provides the person making the report with copies of the documents received.
8. Administrative bodies and staff members can indicate that explanations and/or documents which, on the basis of very serious considerations, they believe require confidentiality may only be provided on condition that the Ombudsman maintains the confidential nature of such explanations and/or documents.
9. Before closing the investigation, the Ombudsman shares his/her provisional findings in writing with the person making the report, the administrative body and all staff members concerned, and gives them the opportunity to respond within a reasonable time frame established by the Ombudsman.

#### **Article 7: Findings**

1. The Ombudsman sets out the findings of his/her investigation in a report.
2. In the event that the report contains a judgment about the behaviour of an administrative body or staff member(s), the report includes the considerations which support this judgment.
3. The report is sent to the person who made the initial report, the administrative body or staff member(s) concerned and the Executive Board.
4. The Ombudsman may make recommendations in the report, as he/she sees fit. These recommendations may relate to the specific behaviour described in the report or to more general aspects that arise during the course of the investigation.
5. In the event that the report contains recommendations which cannot be implemented by the administrative body or staff member(s) concerned due to a lack of appropriate authorisation, the Ombudsman also sends a copy of the report to the administrative body that does have the appropriate authorisation.
6. The person who is authorised to implement the recommendations as referred to in (4) informs the Ombudsman within one month of receipt of the report of the way in which the recommendations have been or will be implemented. The Ombudsman informs the person who made the initial report and the Executive Board immediately and in writing.
7. In the event that, on the basis of very serious considerations, the competent authority contemplates not implementing the recommendation(s), that authority informs the Ombudsman of this, giving reasons. The Ombudsman sends a copy of this notification to the person who made the initial report and, where applicable, to the Executive Board.

#### **Article 8: Annual report**

No later than 1 April, and excluding information traceable to individual persons, the Ombudsman reports to the Executive Board on his/her activities during the preceding calendar year and on the activities carried out by the secretariat within the scope of these regulations.



### **Article 9: Additional provisions**

1. The Executive Board provides the Ombudsman with the resources necessary for the proper exercise of his/her role.
2. The Ombudsman is supported by a secretariat. The secretariat carries out activities that the Ombudsman, within the scope of the assessment of reports, considers necessary and complies with both the Ombudsman's instructions and the duty of confidentiality as referred to in Article 2(6).

### **Article 10: Entry into force**

These regulations enter into force as of 1 July 2021.

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This protocol was finalised by the Executive Board on 13 July 2021, having already been agreed at the Local Consultative Committee meeting of 2 July 2021.