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Regulations on the reporting by ETH Zurich members of inappropriate behaviour

Version of 18 August 2020

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The Executive Board of ETH Zurich

based upon Art. 4, para.1g of the ETH Zurich Organisation Ordinance of 16 December 2003¹ and Art. 9, para. 3 and Art. 10 of the Personnel Ordinance for the ETH Domain², hereby issues the following regulations:

Chapter 1: General

Section I: Purpose, scope, principles

Art. 1 Object and purpose

¹The purpose of these regulations is to set out the principles, responsibilities and procedure for dealing with reports by ETH members of inappropriate behaviour as described in the Respect Code of Conduct³ of ETH Zurich.

²These regulations also encompass reports of serious management and supervision failures that may constitute inappropriate behaviour and contravene the principles set out in the Compliance Guide.

³These regulations are also intended to identify conflict situations as early as possible, de-escalate and resolve them, and restore respectful conduct between ETH members.

Art. 2 Personal and material scope

¹These regulations apply to all members of ETH Zurich as defined in Art. 13 of the ETH Act⁴ as well as to university guests as defined in the Guidelines for Inviting Guest Professors⁵ and the General Terms and Conditions for Visitor Stays at ETH Zurich⁶. For Singapore–ETH Centre staff, the provisions of these regulations can be applied accordingly by the relevant SEC specialist units and contact persons.

²These regulations do not apply to reports submitted by members of other ETH Domain institutions as defined in Art. 1 para. 1 of the ETH Act⁷ or other universities or research institutes with which ETH Zurich collaborates or operates joint centres/institutes. These persons will be referred to the relevant bodies of their institutions, unless the inappropriate behaviour is alleged to be on the part of an ETH Zurich member.

³Reports of incidents that did not take place within the context of official or study-related activities at ETH Zurich or outside the university campus (e.g. study trips, field work, etc.), but exclusively in the private sphere of ETH members, do not generally fall under these regulations.

Art. 3 Principles of respectful behaviour

¹ETH Zurich does not tolerate any discriminatory, threatening, violent or other inappropriate behaviour such as bullying and harassment (see Art. 4). Management style should be based on a culture of open dialogue and mutual respect. The principles of management conduct are set out in the ETH Compliance Guide⁸ and the ETH Respect Code of Conduct.

¹ RSETHZ 201.021 (⇒ www.rechtssammlung.ethz.ch)

² SR 172.220.113

³ www.respekt.ethz.ch/en/code-of-conduct

⁴ SR 414.110 Federal Act on the Federal Institutes of Technology

⁵ RSETHZ 515.1: currently under revision (contents of point 2 now fall under the directive on guests as of 1 September 2019)

⁶ RSETHZ 515.2

⁷ EPFL, Eawag, Empa, PSI, WSL

⁸ RSETHZ 133

²Communication between ETH members should be open and well-meaning. Conflicts are dealt with in a fair, impartial and empathetic manner so as to produce an effective solution. All ETH members are expected to take responsibility for their own behaviour and omissions, and also to distance themselves from the inappropriate behaviour of others, as far as is reasonably practicable.

³ETH members must not accuse another person of inappropriate behaviour or spread suspicion of same – despite knowledge to the contrary in either case – with the intention of damaging that person's reputation.

Art. 4 Terms

The following terms are used to describe inappropriate behaviour, or the persons affected by it, within the meaning of these regulations:

- a) *Discrimination*⁹: Discrimination against persons on the grounds of actual, ascribed or group-specific characteristics such as nationality, ethnic origin, gender, sexual orientation or identity, age, language, social status, lifestyle, religious, philosophical or political views, or physical, intellectual or psychological impairment. Employees must not be discriminated against either directly or indirectly on the basis of their gender, and specifically not on the grounds of marital status, family situation or, in the case of pregnancy.
- b) *Bullying*: Systematic bullying over an extended period of time, with a persistently intensive or repeated behaviour aimed at discrediting, isolating and socially excluding a person or gradually driving them out of their job or study programme. Examples include deliberate belittlement, exclusion, blocking of information, assignment of demeaning tasks or personal criticism. Minor differences of opinion are part of regular working life and cannot be equated with bullying.
- c) *Threats and violence*: Actions through which other people are assaulted, threatened or physically or psychologically harmed in the course of their study or work. These include verbal threats and abuse, stalking or deliberate and persistent harassment of a person.
- d) *Sexual harassment*: Any harassing behaviour with sexual or gender-based reference that offends another person and undermines their dignity¹⁰. This includes, in particular, sexist jokes and suggestive, disparaging or contemptuous remarks or actions, the display or dissemination of pornographic material, unwelcome physical contact, threats, promises of advantages, coercion or pressure to obtain a concession of a sexual nature, in particular through exploiting a dependent relationship.¹¹
- e) *Inappropriate behaviour*: Any conduct that constitutes discrimination, bullying, sexual harassment, violation of personal integrity, or threats and violence, as defined under these regulations.
Inappropriate behaviour also encompasses serious general management and supervision failures which contravene the principles set out in the Compliance Guide¹².
- f) *Persons concerned*: ETH members and guests of ETH Zurich who are affected by the inappropriate behaviour of other ETH members or guests, insofar as these incidents occur in an official or student-related context or in the context of guest activities.
- g) *Person accused of inappropriate behaviour*: ETH members or guests of ETH Zurich who are accused of inappropriate behaviour by other ETH members, guests or individuals from other institutions (colleagues from ETH Zurich partner and ETH Domain institutions).
- h) *Witnesses*: ETH members or guests of ETH Zurich who witness and report inappropriate behaviour.

⁹ Art. 8 of the Federal Constitution of the Swiss Confederation (SR 101) and Art. 3 and 4 of the Federal Act on Gender Equality (SR 151.1)

¹⁰ SECO fact sheet: "Sexual harassment in the workplace"

¹¹ Art. 4 of the Federal Act on Gender Equality; SR 151.1

¹² RSETHZ 133

Section II: Responsible bodies and procedures

Art. 5 Responsibility of management bodies

¹Members of the Executive Board and the heads of the central administrative units (heads of staff units, sections, administrative departments), heads of academic departments and institutes as well as the heads of facilities outside the departments, as defined in Art. 61 of the Organisation Ordinance of ETH Zurich¹³ and professors in their leadership capacity in accordance with Art. 5 of the ETH Professorial Ordinance are duty-bound to ensure a respectful, harassment-free work environment in their areas of responsibility.

²Should management bodies receive information on incidences of inappropriate behaviour, they must take immediate steps to clarify and de-escalate the situation in order to comply with the employer's duty of care. In doing so, they must ensure that the right to privacy of the persons concerned is preserved and that the steps most appropriate to their needs are taken.

³Management bodies can seek advice and support from the HR Department's "ETH Advice and Conciliation Service Respect: Bullying, harassment and discrimination". In cases where the causes of the conflict involve matters of good scientific practice, they will consult the responsible ETH Confidants.

⁴The governing bodies of ETH Zurich in particular are duty-bound under Art. 22a of the Federal Personnel Act (FPA)¹⁴ to report all crimes and misdemeanours (prosecutable offences) which come to their notice in the course of carrying out their official duties¹⁵.

Art. 6 Procedure

¹The procedure for dealing with reports of inappropriate behaviour comprises an informal and formal phase.

²The main purpose of the informal phase is to provide advice to the affected party or any witnesses, clarify and de-escalate the situation, and find a solution between the affected party and the person accused of inappropriate behaviour.

³The formal phase under the provisions of these regulations begins with a written, documented report in accordance with Art. 16 and serves to investigate the facts and find a solution with the cooperation of the affected party and the person accused of inappropriate behaviour, with the goal of reaching an amicable resolution. If this process fails, and as long as the facts of the case have been legally established, sanctions may be imposed in accordance with Art. 21 (such as a warning given).

⁴For situations governed by other ETH Zurich regulations, directives and guidelines, different competences, procedures and measures apply for the formal phase in particular (see Art. 7).

⁵In both the informal and formal phase, the responsible entities will ensure that not only the affected party but also, where admissible, the person accused of inappropriate behaviour receive the same impartial hearing.

Art. 7 Distinction from other regulations, directives and guidelines

¹The competence and the formal phase relating to inappropriate behaviour in the following cases are already **conclusively** regulated in other ETH Zurich regulations and directives:

- a. The **formal phase** for conflicts, differences of opinion and alleged failures regarding the supervision of doctoral students (conciliation and arbitration procedure stipulated in Art. 46f of the Ordinance on Doctoral Studies);

¹³ RSETHZ 201.021

¹⁴ SR 172.220.1

¹⁵ For example: the ETH Advice and Conciliation Service Respect notifies the head of HR as the next level of management; administrative department heads should inform the responsible member of the Executive Board.

- b. The **formal phase** for alleged infringements by students pursuant to Art. 3 of the ETH Zurich Disciplinary Code¹⁶;
- c. The **formal phase** for alleged inappropriate behaviour pursuant to Art. 2 of the Guidelines for ETH Zurich Employees on Reporting Suspected Malpractice, for aspects relating to finance and procurement law (as set out in the "Whistleblowing Guidelines"¹⁷);

²The **informal and formal phase** for alleged inappropriate behaviour regarding good scientific practice (conflicts of authorship, plagiarism, etc.) is covered by the Guidelines for Research Integrity and Good Scientific Practice at ETH Zurich¹⁸ and the corresponding Procedure to Address Allegations of Research Misconduct¹⁹. Suspected infringements and related questions should be directed exclusively to the confidants.

³Issues relating to threats or violence are dealt with by the Threat Management Team led by SSHE. This comprises a coordination group and an extended team. If there is an acute risk of threat or violence, the affected party or the witness should immediately contact the ETH Emergency Desk operated by SSHE.

⁴Criminal offences will be reported to the responsible management body in accordance with Art. 5 para. 4.

⁵The contact and advice services stipulated in Art. 11–13 will notify the regulatory procedures to the persons concerned and refer them immediately to the competent entities.

Art. 8 Confidentiality and anonymity

¹Consultation in the informal phase is always carried out while preserving the confidentiality and anonymity of the reporting person vis-à-vis the person accused of inappropriate behaviour.

²The person accused of inappropriate behaviour will only be consulted with the consent of the affected party, in order to clarify the situation quickly and bring about an amicable resolution.

³In the formal phase, the identity of the affected party will be disclosed to the person accused of inappropriate behaviour and other parties involved in this phase.

⁴The contact and advice services can exchange information with each other and, for the purposes of rapid establishment of inappropriate behaviour, may consult the coordination group while preserving the anonymity of the affected party and the person accused of inappropriate behaviour.

Section III: Rights and obligations

Art. 9 Persons concerned

¹Reporting an incident should not disadvantage the persons concerned in any way, either in terms of their studies, their employment or academic activities at ETH Zurich, or later on in their professional life. Sanctions may be placed on concerned ETH staff in accordance with Art. 21 in cases of misconduct.

²In the case of inappropriate behaviour, the affected party can choose a procedure from one of the following options:

¹⁶ SR 414.138.1

¹⁷ RSETHZ 130.1, also known as "Guidelines for ETH Zurich employees on reporting suspected malpractice ("Whistleblowing Guidelines")"

¹⁸ RSETHZ 414

¹⁹ RSETHZ 415

- a. In the informal phase, they may seek support from the contact and advice services mentioned in these regulations (Art. 11–13). During this phase, they are basically entitled to have their anonymity preserved vis-a-vis the person accused of inappropriate behaviour.
- b. If the person accused of inappropriate behaviour has an employment relationship with ETH Zurich, the affected party can submit a report in the formal phase to the Reporting Office Conflict Management service in accordance with Art. 16. The affected party should document the incident, for example by describing the work or study situation, the relationship to the person accused of inappropriate behaviour, a chronological summary of the events and the relevant correspondence to date, such as emails.
- c. In the case of grave misconduct that is a punishable offence under Swiss criminal law, such as personal injury, rape, or coercion, the affected party can contact professional victim support agencies or file criminal charges against the person accused of inappropriate behaviour.

³ The following principles apply to the affected party:

- a. They shall not accuse another person of inappropriate behaviour or spread suspicion of same, if they have knowledge to the contrary in either case;
- b. When communicating with the person accused of inappropriate behaviour, they should conduct themselves fairly and correctly and preserve confidentiality;
- c. They take part in the informal and formal phase without prejudging the outcome and actively work towards finding a solution;
- d. They recognise the person accused of inappropriate behaviour's right to have a fair hearing in order to explain their perspective on the situation;
- e. When first approaching the contact or advice service, they should notify any contacts already made, as well as any advisory sessions with other agencies.

⁴Art. 9 para. 1 applies accordingly to witnesses of alleged inappropriate behaviour.

Art. 10 Person accused of inappropriate behaviour

The person accused of inappropriate behaviour

- a. has the right, in the formal phase at the latest (see Art. 16 ff.), to a full and impartial hearing and to present their perspective, such as by describing the work or study situation, the relationship with the affected party, as well as a chronological summary of events;
- b. should take part in the informal and formal phase without prejudging the outcome, and actively work towards finding a solution;
- c. should not exploit existing power structures or dependent relationships, and should refrain from exerting any form of pressure on the affected party or implying the threat of disadvantages;
- d. should, when communicating with the affected party, conduct themselves fairly and correctly and preserve confidentiality.

Chapter 2: Informal phase

Section I: Contact and advisory centres

Art. 11 Line manager, HR Personnel Consulting and Ombudspersons

¹ETH Zurich has various contact and advisory services to which ETH members can turn for dealing with incidences of inappropriate behaviour.

²These services will listen to the affected party, mediate and de-escalate the situation, taking into consideration the possible interfaces and competences set out in Art. 7.

³The primary point of contact for ETH employees is usually their line manager and/or their responsible contact in HR Personnel Consulting.

⁴In accordance with Art. 15 of the ETH Zurich Organisation Ordinance (OrgO)²⁰ all ETH members have recourse to ombudspersons, who are nominated by the Executive Board for a four-year term of office.

Art. 12 Contacts for university groups

ETH members can also get in touch with the contact persons of the university groups (Lecturers' Conference (KdL), Academic Association of Scientific Staff at ETH Zurich (AVETH), Association of Students at ETH Zurich (VSETH), and Staff Commission (PeKo)). They will listen to the affected party, inform them about the key provisions of these regulations and of the responsible bodies under Art. 7 of these regulations, namely the confidants for good scientific practice.

Art. 13 Internal and external HR specialist units

¹The HR department has an internal "ETH Advice and Conciliation Service Respect: Bullying, harassment and discrimination". There is also an external independent advice service: "Bullying, harassment and discrimination".

²These specialist units are staffed with professionals qualified in employment psychology, mediation and other specialist areas. They provide expert, impartial advice. They inform the persons concerned about the key provisions of these regulations.

³Professors, ETH staff and students can contact these specialist units for **advice, meetings and possible conflict resolution** for all aspects of inappropriate behaviour pursuant to Art. 4 (with the exception of threatening and violent behaviour).

⁴The specific tasks of the specialist units are as follows:

- a. As far as possible, they gain a detailed picture about the specific situation, record the reason for the conflict and advise the affected party. They do not carry out investigations;
- b. With the agreement of the affected party, they also hear the side of the person accused of inappropriate behaviour (which means that anonymity is no longer preserved);
- c. They commit to finding a speedy and individual solution. They may also suggest a conciliation procedure or mediation with the persons involved. ETH Zurich provides the option of either internal or external conciliation or mediation. This is without prejudice to the arbitration and conciliation procedures under Art. 46f of the Ordinance on Doctoral Studies²¹;

²⁰ RSETHZ 201.021; the mandate of the ombudspersons is described in Art. 15 of the Organisation Ordinance (⇒ www.rechtssammlung.ethz.ch)

²¹ SR 414.133.1

- d. In the event of grave circumstances, particularly those that might result in criminal charges, and/or repeat incidents that also touch on other areas of inappropriate behaviour, especially in one and the same group or team, the specialist units notify the head of Human Resources after previously notifying the affected party (employer's duty of care and Art. 22a Federal Personnel Act²²). The person accused of inappropriate behaviour will attend a hearing at the Reporting Office Conflict Management after consulting the coordination group (Art 18. para. 5).
- e. If the person accused of inappropriate behaviour is a student and if the facts of the case involve violations in the sense of the ETH Zurich Disciplinary Code, the affected party is advised to submit a report in accordance with the Code (see Art. 7 para.1b).²³

⁵Internal specialists have an obligation to confidentiality under Art. 57 of the Personnel Ordinance for the ETH Domain ²⁴ and Art. 22 FPA²⁵, while external specialists are bound by their contractual agreement with ETH Zurich. They must always treat in strict confidence all information about the affected party, which they receive during the course of their duties.

Section II: Exchange and coordination

Art. 14 Exchange of information between contact and advisory services

The contact and advisory services exchange technical information for the purpose of coordination and rapid identification of cases, while at the same time maintaining strict confidentiality. This is without prejudice to Art. 5 para. 4.

Art. 15 Coordination with other institutions

¹If the persons concerned are not members of ETH Zurich, they should contact the specialist advisory services at their own institution (e.g. ombudsperson, Empa, PSI).

²If the person accused of inappropriate behaviour in such cases is a member of ETH Zurich, the ETH Zurich units involved will coordinate their procedures with the specialist units of the other institutions.

Chapter 3: Formal phase

Art. 16 Reporting

¹The affected party must submit a written report. A formal report can be made if the **person accused of inappropriate behaviour is a professor or employee of ETH.**

²The person who has been subjected to inappropriate behaviour or conflict can, as a rule, only make a formal report once attempts at resolution via the contact and advisory services mentioned in Chapter 2 have proven unsuccessful.

²² SR 172.220.1

²³ The statutory periods of limitation stipulated in Art. 8 of the ETH Zurich Disciplinary Code must be respected

²⁴ SR 172.220.113

²⁵ SR 172.220.1

³Reports relating to the circumstances outlined in Art. 7, and whose competences and procedures fall under other regulations, directives and guidelines of ETH Zurich, will be immediately forwarded to the relevant responsible bodies by the Conflict Management Reporting Office of the Vice President for Personnel Development and Leadership (see Art. 18), with the consent of the affected party.

⁴Anonymous reports will not be processed²⁶. The obligation of confidentiality towards the person accused of inappropriate behaviour is lifted; it will, however, continue to apply to third parties not directly involved.

Art. 17 Time limits

¹The affected party must make a report in good time, and as a rule within three months from the incident of inappropriate behaviour. In the case of bullying, this should be the last incident before the report is made.

²Where the HR specialist units specified in Art. 13 and ombudspersons are involved, the report must be submitted to the Conflict Management Reporting Office no later than **three months** after the contact and advisory services' attempts to resolve the situation have been unsuccessful.

³Failure to comply with these deadlines means the affected party may forfeit their rights relating to the procedures under these regulations²⁷.

⁴If no measures have been taken within **three months from the report being made**, and there is no justification for this lack of action, the affected party can write to the ETH Zurich Executive Board or the Ombuds Office of the ETH Board.

Art. 18 Conflict Management Reporting Office

¹The Conflict Manager in the Vice President for Personnel Development and Leadership (VPPL) office is the interface between the informal and formal phases regarding the reporting of incidents of inappropriate behaviour. Their tasks include in particular the coordination of such procedures with the aim of achieving an amicable resolution between the affected party and the person accused of inappropriate behaviour.

²In cases of discrimination within the meaning of the Equal Opportunities Act, HR management will be asked to give an opinion.

³Once the written report has been received by the Conflict Management Reporting Office of the Vice President for Personnel Development and Leadership office, the Conflict Manager will immediately review the competence, as well as checking the parties potentially involved and whether the report is complete and submitted within the specified time limits.

⁴If the Conflict Manager suspects an incidence of seriously inappropriate behaviour or a complex situation, they will immediately consult the coordination group (Art. 19) to deal with it.

⁵In the case of serious incidents or complex situations, the person accused of inappropriate behaviour will only be given a hearing after consultation with the coordination group. In all other cases, the Conflict Manager will carry out the hearing where this has not already occurred in the informal phase with the agreement of the affected party.

²⁶ According to the general principles of the rule of law, a person accused of inappropriate behaviour must be given the chance to comment on allegations and respond to them (legal hearing). To this end, they must be informed about the report and the person making it, as well as the circumstances and content of the accusation.

²⁷ Responsibility under employment law pursuant to Art. 58a para. 5 of the ETH Personnel Ordinance (PersO ETH) expires one year after discovery (or reporting) of the violation of employment duties, but no later than three years after the last breach of duty.

⁶The Conflict Manager offers the parties involved – especially the affected party and the person accused of inappropriate behaviour – the opportunity of an amicable resolution. If this is not achievable in cases of discrimination, the affected party can seek redress from the Conciliation Commission of the ETH Board, as long as both they and the person accused of inappropriate behaviour are employees of ETH Zurich²⁸.

⁷The Conflict Manager will draw up a written agreement with the persons involved, setting out the rules of conduct and fair play in communication. This agreement will continue to apply to both parties until the conclusion of the formal phase.

⁸Possible protective measures may be agreed at the request of an affected party if they are in a dependent relationship.

Art. 19 Coordination group for cases of inappropriate behaviour²⁹

¹The coordination group supports the Conflict Manager as a permanent specialist body for coordinating the procedure for serious or complex cases of alleged inappropriate behaviour. It also serves to achieve resolution through early detection. It provides the President and the Vice President for Personnel Development and Leadership with recommendations on how to proceed.

²Its composition depends on individual cases, and usually comprises management-level representatives from the HR department, the Office for Faculty Affairs, Academic Services and the Legal Office. Where appropriate, it also includes representatives from the Office of Research, Corporate Communications and the General Secretariat.

³The coordination group adapts its composition to match the severity or complexity of reported cases of inappropriate behaviour.

⁴The coordination group is chaired by the head of Human Resources.

⁵Members of the coordination group, together with the Conflict Manager, have an obligation of confidentiality under Art. 57 PersO-ETH and Art. 22 FPA. They must treat all the information received during the course of their duties in strict confidence.

Chapter 4: Initiation of an investigation procedure under Art. 58 PersO-ETH

Art. 20 Administrative and disciplinary investigation

¹In exceptional cases, where such measures are deemed appropriate, the President can – on the basis of Art. 15 of the Rules of Procedure Applying to the ETH Zurich Executive Board (GO-SL)³⁰, at the request of the Vice President for Personnel Development and Leadership to the President – initiate an administrative investigation in accordance with Art. 58 PersO-ETH³¹ in conjunction with Art. 27a of the Government and Administration Organisation Ordinance (GAOO)³², or a disciplinary investigation in accordance with Art. 58a PersO-ETH.

²The administrative investigation is a special control procedure (management supervision) that serves to clarify whether there are grounds for an ex-officio intervention in the public interest. The investigation is not directed at a specific person.

²⁸ SR 172.327.11 (Ordinance of the ETH Board on the Organisation of the Conciliation Commission under the Gender Equality Act for the ETH Domain, 12 December 2019)

²⁹ Specialist group within the meaning of Art. 7 of the Regulations for the Risk Management Commission of ETH Zurich; RSETHZ 203.7

³⁰ RSETHZ 202.3

³¹ SR 172.220.113

³² SR 172.010.1

Chapter 5: Sanctions under person law

Art. 21 Responsibility and competence

¹Professors or employees who act inappropriately towards other ETH members or guests must expect punishment under personnel law and/or other disciplinary measures (such as mandatory coaching). In the case of minor failures or exploitation of dependent relationships or power structures on the part of managers or supervisors, a suitable warning will be issued.

²Particularly serious misconduct may lead to dismissal, especially if the circumstances of the case constitute grounds for prosecution.

³Sanctions against professors and employees under personnel law are imposed by the President of ETH Zurich or the Vice President for Personnel Development and Leadership.

⁴Any measures taken by ETH Zurich are independent of the possible initiation of criminal proceedings.

⁵ETH employees who, despite knowledge to the contrary, accuse another person of inappropriate behaviour or voice such suspicion may face sanctions under personnel law.

⁶Failure to maintain confidentiality in the context of these regulations can lead to consequences under both personnel and criminal law (violation of official secrecy).

Chapter 6: Concluding provisions

Art. 22 Enactment

The head of Human Resources and head of Academic Services are responsible for raising awareness of these regulations by means of information sheets and guidelines for all current and incoming students, employees and professors.

Art. 23 Entry into force

These regulations come into effect on 1 September 2020.

Zurich, 18 August 2020

SWISS FEDERAL INSTITUTE OF TECHNOLOGY

In the name of the ETH Zurich Executive Board:

The President: Joël Mesot

The Secretary General: Katharina Poiger Ruloff