

University of Passau Guidelines on Exclusion from Appointment Procedures, especially due to concerns about a conflict of interests

Members of the appointment committee as well as referees (*Gutachter/Gutachterin*) need to have a certain distance from the applicants, in order to maintain the necessary objectivity when making their assessment. There may not be any close personal or professional relationships.

1. The procedure

- Those suggested as **members of the appointment committee** by the faculty council (*Fakultätsrat*) receive these guidelines without delay and **declare in writing** that they do not meet any of the conditions for exclusion listed in points 2. and 3. and that there are no similar grounds for concern over their impartiality **once they are aware of the candidates' identities**.
- **Members of an appointment committee** who, following an initial brief review of the applications, realise that **there may be a reason for exclusion from the appointment procedure shall immediately report this fact in writing**. The appointment committee decides on the exclusion from the appointment procedure without the affected member of the committee. The university president must be informed comprehensively and without delay.
- If the appointment committee decides to exclude the member in question, this leads to that person being **immediately excluded from the appointment procedure by way of a temporary suspension of their membership** in the committee. If the applicant whose application led to the exclusion is not taken into consideration after the first selection, the appointment committee determines that the conditions for the exclusion no longer apply. The member of the committee in question may then resume their activity in consultations and votes within the appointment committee.

If the applicant in question remains on the shortlist, the member of the committee with the conflict of interest is definitively removed from the appointment committee and the faculty council (*Fakultätsrat*) appoints a new member for the appointment committee in agreement with the University Executive, if this is necessary or desired by the faculty.

Decisions that were made at a time when professors did not represent the majority of the votes can be confirmed and so remedied when the suspension of temporarily excluded members of the committee ends or when new members who are professors join the appointment committee. The majority of professors must be guaranteed at the latest by the time of the final vote on the suggested final list of candidates.

- The **referees** receive these guidelines immediately and **declare in writing** that they do not meet any of the conditions for exclusion listed in points 2. and 3. and that there are no similar grounds for concern over their impartiality, or **immediately report on possible reasons for exclusion from the appointment procedure comprehensively and in writing**.
- **Special case: The procedure for small academic communities**

If there are no experts in the respective field available domestically or abroad, the members of the appointment committee who are deemed to have a conflict of interest may remain on the committee in an advisory capacity.

2. Exclusion from the appointment committee

a. Exclusion by act of law (article 20 of the *Bayerisches Verwaltungsverfahrensgesetz* (Bavarian administrative procedures act – *BayVwVfG*)

The following people may not be actively involved in an appointment procedure:

- Anyone who is a candidate themselves
- Anyone who is related to an applicant
- Anyone who represents an applicant by act of law or based on power of attorney generally or in this appointment procedure
- Anyone who is related to a person who represents an applicant in this appointment procedure
- Anyone who is gainfully employed with an applicant or is a member of the executive or supervisory or similar board of an applicant; this does not apply to those whose organisation (place of employment) is a shareholder
- Anyone who has provided an expert opinion or similar that is related to the procedure outside of their official capacity related to this procedure

Anyone who stands to gain an advantage from the activity or the decision is deemed equivalent to an applicant.

b. Exclusion due to concerns about a possible conflict of interest (article 21 of the *BayVwVfG*)

Exclusion due to concerns about a possible conflict of interest does not require there to actually be a conflict of interest. It is sufficient that there is a "concern" that there may be one and the fact that involvement of the person concerned may look bad to outsiders. If there is any **reason** that may **justify suspicions against the unbiased completion of the appointment procedure, the person concerned must be excluded.**

Reasons for concern may be in particular:

- Close academic cooperation (e.g. joint projects or joint publications within the last 3 years)
- The affiliation with or pending transfer of a member of the appointment committee to the university or to the non-university research institution of the applicant
- Teacher-student relationship due to being the first supervisor or first reviewer of the doctoral or habilitation thesis of the applicant within the last six years
- Dependent working relationships within the last five years
- Participation in mutual non-anonymous review processes within the past 12 months
- Close personal ties or domestic partnership

3. Notes on appointing referees

- Applicants may not make suggestions for their own referees.
- Applicants are not asked to submit any documents that are necessary for the evaluation directly to the referees.
- The applicants are not informed of the names of the referees.

4. Explanatory notes

Relatives are defined as any of the following in section 20 (5) of the *BayVwVfG*:

1. Fiancé or fiancée
2. Spouse or civil life partner pursuant to the Act on Registered Life Partnerships (*LPartG*)
3. Lineal blood and in-law relations
4. Siblings
5. Children of siblings
6. Spouses and civil life partners of siblings and siblings of spouses and civil life partners
7. Siblings of parents
8. Anyone who has a parent-child relationship to the applicant based on living together and one person looking after the other for an extended period (foster parents and foster children)

The listed people also count as related if...

1. ... in cases 2, 3 and 6 the marriage or partnership that the relationship is based on has ended.
2. ... in cases 3 to 7 the blood or in-law relationship has ended due to acceptance as a child, in case 8 the persons involved no longer live together but still have parent/child ties to each other.

Joint publications are journal articles, books, book chapters or encyclopaedia entries that were jointly written and jointly edited books or individual issues or special issues of journals. If members of the appointment committee or referees publish essays in a book whose editor is an applicant (or vice versa) or if both are active in editorial committees of journals, book series or online publications, this does not count as a joint publication.

– *Guidelines in accordance with the resolution of the University Executive of 28 June 2017* –