

Approved by Rector's directive No 11 of 12 March 2021

In force from: 12.03.2021

## **CONCILIATION PROCEDURE**

The directive is established based on clause 12) of § 11 of the Statutes of Tallinn University of Technology.

### **1. GENERAL PROVISIONS**

- 1.1 The Conciliation Procedure (hereinafter referred to as "the Procedure") lays down the rules for resolving conflicts between the members of Tallinn University of Technology (hereinafter referred to as "the university").
- 1.2 The purpose of the conciliation procedure is to resolve conflicts and to avoid disruption of work. First and foremost, conciliation between the parties is pursued through negotiations.
- 1.3 The Procedure applies to all the members of the university.
- 1.4 The Conciliation Procedure is based on the legislation and other documents on employment relations, studies and academic ethics set out in the applicable law and the university's legislation, e.g.:
  - 1.4.1 the Employment Contracts Act;
  - 1.4.2 the Work Procedure Rules and its Annex 1 "Procedure for Avoiding a Conflict of Interests and for Prevention of Corruption" and Annex 4 "Procedure for Whistleblowing and Verification of Whistleblowers' Complaints";
  - 1.4.3 the Collective Agreement;
  - 1.4.4 the Guidelines for Equal Treatment.
- 1.5 Conciliation proceedings are conducted only if the proceedings in the same matter are not conducted under any other legislation applicable at the university, e.g. the Academic Policies or the Statute of the Academic Ethics Committee.

### **2. CONFLICT AND PARTIES INVOLVED IN CONCILIATION**

- 2.1 A conflict is a clash of interests, needs or values, in particular a disagreement between the opposing requests or wishes of two individuals or groups, e.g.;
  - 2.1.1 where the purpose of the conduct is to damage another person;
  - 2.1.2 blaming, insulting, disparaging, humiliating, mocking, discriminating of another person;
  - 2.1.3 violating work procedure rules or laws (incl. corruption);
  - 2.1.4 disruption of work.
- 2.2 The parties to the conflict, the first and second instance conciliators, the persons involved and the persons possessing information on the conflict shall participate in the conciliation proceedings.
- 2.3 The persons involved in the conciliation proceedings are obliged not to disclose or forward any confidential information received in the course of the proceedings. For the purposes of this Procedure, confidential information means any information regarding the parties to the proceedings and the conflict between them, which is not available to the public. This includes also data and information that must be kept confidential pursuant to law and which can be accessed only by subjects who have the corresponding right of access.
- 2.4 The university has the right to disclose information about conflicts to prevent recurrence of unacceptable conduct. Anonymity is guaranteed upon disclosure and, if this is not possible, information is disclosed only with the consent of the parties.

### **3. CONCILIATION PROCEEDINGS**

- 3.1 At first instance, the conciliation proceedings are initiated based on a free-format notification submitted by an employee and, at second instance, based on a petition for conciliation filed in a

format that can be reproduced in writing, which must include a description of the facts, evidence or a description of them and a request.

- 3.2 A petition for conciliation shall be registered. The registration shall be arranged by the Head of the Internal Audit Office, to whom all relevant materials relating to the conciliation procedure must be forwarded. The Head of the Internal Audit Office shall assign the access rights in each conciliation proceeding and shall notify the members of the Committee thereof.
- 3.3 In conciliation proceedings, the conciliator makes a decision, which may comprise a description of the conciliation, an agreement binding on the parties, detection of an infringement and any applicable legal remedies, termination of the proceedings with the consent of the parties or other solution to the conflict.
- 3.4 The head of the structural unit, in case of a student the Dean, shall organise implementation of the decision in force.
- 3.5 Evidence in a case means any information based on which the facts and claims can be established, whereas:
  - 3.5.1 each party shall prove the facts on which his/her claims and objections are based;
  - 3.5.2 a fact which the conciliator deems to be a matter of common knowledge, i.e. a fact concerning which reliable information is available from independent sources, need not be proved;
  - 3.5.3 an argument made concerning on a fact need not be proven if the opposing party admits the fact. Admission means express agreement to an allegation by means of a written document addressed to the conciliator, or entered in the minutes of the conciliation proceedings;
  - 3.5.4 the conciliator has the right to request from the parties evidence necessary for the resolution of the dispute as well as a response to the position of the other party.
- 3.6 The conciliator at first instance of the conciliation proceedings is:
  - 3.6.1 in matters regarding employment relations either the direct superior or, if the conflict is related to the direct superior, the head of the structural unit or, if the conflict is related to the structural unit, the Dean or, if the conflict is related to the Dean, the Vice-Rector or, if the conflict is related to the Vice-Rector, the Rector or, if the conflict is related to the Rector, the matter shall be referred to the Committee;
  - 3.6.2 in matters regarding academic affairs, the Dean or, if the conflict is related to the Dean, the Vice-Rector or, if the conflict is related to the Vice-Rector, the Rector;
- 3.7 The conciliator at first instance of the conciliation proceedings:
  - 3.7.1 collects and evaluates the evidence provided, hears the parties concerned, involves experts and other persons, if necessary;
  - 3.7.2 resolves the conflict and reconciles the parties;
  - 3.7.3 shall make a decision as soon as possible but no later than within 15 days;
  - 3.7.4 shall inform the parties of the decision in a form that can be reproduced in writing within 5 days at the latest;
  - 3.7.5 shall inform the Human Resources Office of all the cases involving elements of a criminal offence or a potential risk to the reputation of the university.
- 3.8 An appeal against a decision made at first instance can be filed to second instance by notifying the person who made the decision within 5 working days at the latest and submitting the appeal within 20 working days.
- 3.9 The conciliator at second instance of conciliation proceedings is the Conciliation Committee (hereinafter referred to as "the Committee").
- 3.10 The Committee includes the Head of the Internal Audit Office, the Chief Legal Officer and the Head of the Human Resources Office (in their absence, their substitutes), a representative of the academic staff who is not related to the parties and whom the Committee invites to participate in the particular proceedings. The Committee shall be chaired by the Head of the Internal Audit Office.
- 3.11 Persons who have any direct or indirect personal interest in the conciliation procedure must not participate in the Committee's work. In this case the member of the Committee shall withdraw himself/herself from the proceedings. The Committee has the right to involve in its work other persons the Committee considers necessary.
- 3.12 The Committee:

- 3.12.1 shall, after receiving and registering the petition, if it has not already been registered in accordance with clause 3.2 of this Procedure, make a preliminary decision on whether the dispute falls within the Committee's competence;
- 3.12.2 shall request the opinion of the Academic Ethics Committee if it appears upon commencement or during the proceedings that it may be a matter of academic ethics and cooperates fully and actively with the Academic Ethics Committee, if necessary;
- 3.12.3 involves a person appointed by the Board of the Student Body in resolving a conflict concerning a student;
- 3.12.4 collects and evaluates the evidence provided, hears the parties concerned, involves experts and other related parties, if necessary;
- 3.12.5 resolves the conflict and reconciles the parties;
- 3.12.6 shall make a decision as soon as possible but no later than within 15. If it is not possible to make a decision within 15 days, the Committee has the right to extend the term for making the decision up to a total of 60 days;
- 3.12.7 shall inform the parties of the decision in a form that can be reproduced in writing within 5 days at the latest;
- 3.12.8 shall communicate its decision to the first instance and, if necessary, to the employer's representative for implementation;
- 3.12.9 shall make a decision on reporting a crime if elements of a criminal offence become evident.

#### **4. TRUSTEE**

- 4.1 The Committee may recommend to a party to conciliation proceedings involvement of a trustee elected from among the members of the university, who can participate in the conciliation proceedings, provided that this does not prejudice the interests of the party having recourse to the trustee.
- 4.2 A trustee is a person who has been elected by a party as his/her representative in communicating in conciliation proceedings. The main task of a trustee is to act as a mediator between the represented party, the other party and the person conducting the proceedings, to communicate important information and proposals, to help to find solutions to problems that have emerged.
- 4.3 A trustee is obliged to keep secret all confidential information received in the course of the conciliation proceedings.
- 4.4 A trustee shall not be a person in conflict with the other party or a person not accepted by the other party as a trustee.

#### **5 OTHER TERMS AND CONDITIONS**

- 5.1 Any person referred to in clause 1.2 of the Procedure has the right to turn to the Committee for information on who to contact if the person does not know how to proceed.
- 5.2 At the request of a party to conciliation proceedings, the university shall provide psychological counselling to the party at the university's expense.