

# Equal Treatment of Students at Universities Act

(2001:1286)

(Including amendments up to and including SFS 2006:308)

## PURPOSE OF THE ACT

**Section 1** The purpose of this Act is to promote equal rights for students and applicants in the higher education sector and to combat discrimination in higher education on grounds of sex, ethnic affiliation, religion or other belief, sexual orientation or disability. (2003:311).

## DEFINITIONS

**Section 2** In this Act

*University:* refers to a university or other institute of higher education which is managed by the State, a municipality or a county council and which is subject to the Higher Education Act (1992:1434), or to a private education provider licensed to award degrees under the Award of Certain Degrees Licensing Act (1993:792),

*Student:* refers to a person who has been admitted to and is pursuing a course of basic, advanced-level or postgraduate training under the Higher Education Act, or is taking part in a course leading to a degree awarded by a private education provider under the Award of Certain Degrees Licensing Act; a person employed as a doctoral student, however, shall not be considered a student under the Act,

*Applicant:* refers to a person who in due form has given notice that he or she wishes to be admitted to basic, advanced-level or postgraduate training under the Higher Education Act or to a training course leading to a degree awarded by a private education provider under the Award of Certain Degrees Licensing Act,

*Ethnic affiliation:* refers to the state of belonging to a group of people who share the same colour or national or ethnic origin,

*Sexual orientation:* refers to homosexual, bisexual or heterosexual orientation,

*Disability:* refers to a permanent physical, mental or intellectual impairment of functional capacity which was either caused by an injury or illness already present at birth, which arose thereafter or which may be expected to arise. (2006:308).

## ACTIVE MEASURES

**Goal-oriented work**

**Section 3** A university shall, within the framework of its activities, conduct goal-oriented work to actively promote the equal rights of students irrespective of their sex, ethnic belonging, religion or other religious faith, sexual orientation or disability.

More detailed regulations concerning the obligations of universities in accordance with the first paragraph are contained in Sections 4 and 5. (2003:311).

#### **Preventing and precluding harassment**

**Section 4** A university shall take measures to prevent and preclude students or applicants being subjected to harassment. In this Act, the term harassment means conduct that violates a student's or an applicant's dignity in higher education studies, if the conduct is related to

- ethnic belonging (ethnic harassment),
- religion or other religious faith (harassment owing to religion or other religious faith),
- sexual orientation (harassment owing to sexual orientation),
- disability (harassment owing to disability), or
- sex or is of a sexual nature (sexual harassment). (2003:311).

#### **Annual plan**

**Section 5** A university shall each year prepare a plan that shall contain a review of the measures that are required to promote the equal rights of students irrespective of sex, ethnic belonging, religion or other religious faith, sexual orientation or disability and in order to prevent and preclude harassment in accordance with Section 4. The plan shall also contain a report on which of these measures the university intends to commence or implement during the forthcoming year.

A report on how the planned measures in accordance with the first paragraph have been implemented shall be included in the plan for the following year. (2003:311).

### **OBLIGATION TO INVESTIGATE AND TAKE MEASURES AGAINST HARASSMENT**

**Section 6** A university that becomes cognisant of a student considering him or herself to have been exposed to such harassment as referred to in Section 4, shall investigate the circumstances surrounding the said harassment and, in appropriate cases, take such measures that may reasonably be required to preclude continued harassment.

### **PROHIBITION OF DISCRIMINATION**

#### **Direct discrimination**

**Section 7** A university may not disfavour a student or an applicant by treating him or her worse than the university treats, has treated or would have treated someone else in a comparable situation, if the disfavour is connected with sex, ethnic belonging, religion or other religious faith, sexual orientation or disability.

The prohibition does not apply if the treatment is justified taking into account a special interest that is manifestly more important than the interest of preventing discrimination at the university. (2003:311).

#### **Indirect discrimination**

**Section 8** A university may not disfavour a student or an applicant by applying a provision, a criterion or a method of procedure that appears to be neutral but which in practice especially disfavours persons of a particular sex, with a particular ethnic belonging, religion or religious faith, or sexual orientation or particular disability. However, this does not apply if the provision, criterion or method of procedure can objectively be justified owing to a reasonable goal and the means are appropriate and necessary in order to achieve the goal. (2003:311).

#### **Harassment**

**Section 8 a** A university may not discriminate against a student or an applicant by harassing him or her. (2003:311).

#### **Instructions to discriminate**

**Section 8 b** A university may not issue orders or instructions to an employee at the university concerning the discrimination of a student or an applicant according to Sections 7–8 a. (2003:311).

#### **Scope of the prohibitions**

**Section 9** The prohibitions against discrimination contained in Sections 7–8 b shall apply when a university

1. decides on entry to higher education or takes any other measure that is important for entry,
2. decides on examinations or makes any other assessment of study performance,
3. decides or conducts any other similar assessment on matters concerning
  - a) crediting of education,
  - b) respite with studies or continuation of studies after study breaks,
  - c) change of tutor,
  - d) withdrawal of tutor or other resources in connection with research education,
  - e) training allowance for doctoral students, or
4. takes a disciplinary measure against a student. Act (2006:308).

**Section 10** The prohibition contained in Section 7 against direct discrimination when a university decides on entry to higher education and underlying education, also applies when the university, by making premises accessible and usable, can create a situation for a person with disability that is comparable to that for persons without such disability, provided it is reasonable to require that the university takes such measures.

## **PROHIBITION OF VICTIMISATION**

**Section 11** A university may not subject a student or an applicant to victimisation because he or she has reported the university for discrimination or participated in an investigation under this Act.

## **INFORMATION CONCERNING CREDENTIALS**

**Section 12** An applicant who has been denied access to education is entitled, upon request, to be provided with written information from the organiser of the education concerning what education or what other credentials the person who has been accepted for the education possesses. This right applies if the education sought can lead to a degree that an individual organiser of education may issue in accordance with the Award of Certain Degrees Licensing Act (1993:792).

## **DAMAGES**

**Section 13** The State, a municipality or a county council that is the manager of a university and a private organiser of education who has a licence to award degrees in accordance with the Award of Certain Degrees Licensing Act (1993:792) shall pay damages for the violation that a student or an applicant has been subjected to by reason of the university neglecting

- the obligation under Section 6 to investigate and take measures against harassment of students,
- the prohibitions contained in Section 7, 8, 8 a or 8 b and Section 9 or Section 10 against discrimination of students or applicants,
- the prohibition contained in Section 11 against subjecting students or applicants to victimisation.

If it is reasonable, the damages may be reduced or lapse completely. (2003:311).

## **APPEALS**

**Section 14** A decision by a university or a university college that is managed by the State, a municipality or a county council may be appealed against to the University Appeals Board on the grounds that the decision contravenes the prohibitions against discrimination contained in Section 7 or 8 and Section 9, items 1, 3 or 4 or Section 10 or the prohibition against victimisation contained in Section 11. If the Appeals Board considers that the decision violates any of the prohibitions and that it may be assumed that this had an impact on the outcome, the decision shall be annulled and the matter, if it is necessary, be remitted to the university or university college to be considered anew.

If a decision may be appealed against in accordance with any other enactment, the appeal shall be made according to the procedure prescribed there instead of in accordance with the provisions contained in the first paragraph.

**Section 15** A decision by the University Appeals Board under this Act may not be appealed against.

## **SUPERVISION**

**Section 16** The Equal Opportunities Ombudsman, the Ombudsman against Ethnic Discrimination, the Ombudsman against Discrimination because of Sexual Orientation and the Disability Ombudsman shall ensure that this Act is complied with.

An Ombudsman shall endeavour to secure voluntary compliance with this Act by the universities.

A university is liable, if directed by an Ombudsman, to provide the information concerning the circumstances regarding the operations of the university that may be of importance for supervision. A university is also obliged to submit information when an Ombudsman supports a request made by an applicant under Section 12.

## **TRIAL**

### **Applicable rules**

**Section 17** Cases concerning damages in accordance with Sections 6–11 and also Section 13 shall be dealt with in accordance with that prescribed in the Code of Judicial Procedure regarding litigation in contentious cases where settlement of the matter is allowed.

However, in such cases it may be ordered that either party shall bear his or her own litigation costs, if the party that lost the case had reasonable cause to have the dispute considered.

### **Burden of proof**

**Section 17 a** If a person who considers that he or she has been discriminated against or victimised shows circumstances that give cause to assume that he or she has been discriminated against or victimised, it is the university that shall prove that discrimination or victimisation has not occurred. (2003:311)

### **Right to bring an action**

**Section 18** In a dispute in accordance with Section 17, the Equal Opportunities Ombudsman, the Ombudsman against Ethnic Discrimination, the Ombudsman against Discrimination because of Sexual Orientation or the Disability Ombudsman may as a party bring an action for a student or an applicant who gives consent for the same.

If an Ombudsman brings an action for a student or an applicant pursuant to this Act, the Ombudsman may within the same litigation also bring another action as a representative for the student or the applicant.

That prescribed by the Code of Judicial Procedure concerning situations of disqualification relating to parties, personal attendance, questionings under truth affirmation and other issues that relate to evidence shall also apply to a person for whom an Ombudsman brings an action in accordance with the first paragraph.

## **LIMITATION PERIODS, ETC.**

**Section 19** An action in a case for damages in accordance with Sections 6–11 and also Section 13 shall be instituted within two years after when the act complained of occurred or an obligation should have at the latest been performed. Otherwise the right to bring proceedings expires.

**Section 20** An action that is brought by the Equal Opportunities Ombudsman, the Ombudsman against Ethnic Discrimination, the Ombudsman against discrimination because of Sexual Orientation or the Disability Ombudsman shall be treated as if the action had been brought by the student or by the applicant him or herself.

## **TRANSITIONAL PROVISIONS**

2006:308

1. This Act enters into force on 1 July 2007.
2. The new provisions also apply to students who, prior to the date on which the present Act entered into force, had been admitted to and were pursuing basic or postgraduate training under the Higher Education Act.