

DISCLAIMER: THIS TRANSLATION OF 'Vertrag über gute Beschäftigungsbedingungen für das Hochschulpersonal' IS NOT LEGALLY BINDING.

Agreement on Good Employment Conditions for University Staff

Preamble

Good employment conditions for university staff are necessary in order to consolidate and further improve the success of the universities run by the federal state of North Rhine-Westphalia (NRW). Therefore, the situation of university staff in science and the arts as well as technology and administration is of particular concern to the signatories of this agreement. According to current German labour law and the law of the European Union, permanent full-time employment is the standard employment relationship.

Since employment conditions are largely determined by legal and collective regulations and financial resources, improving them is a particular challenge. The contractual partners face this challenge and want to achieve significant improvement in employment conditions, especially in the area of fixed-term employment contracts.

The promotion of gender equality and equal opportunities as well as inclusion is a goal shared by the signatories.

In this context, state staff council conferences, university headships and the Ministry for Innovation, Science and Research of the State of North Rhine-Westphalia (Ministerium für Innovation, Wissenschaft und Forschung des Landes Nordrhein-Westfalen, hereinafter: Ministry) have identified fields of action and pointed out possibilities to achieve improvements in the quality of employment at universities. Considering all of the above, the following has been agreed:

Section 1

Labour market of universities in North Rhine-Westphalia

Article 1

Transfer of staff employed under the Collective Agreement for the Public Service of the Federal States

(1) In the event of a transfer of staff employed under the *Collective Agreement for the Public Service of the Federal States* (TV-L) between universities run by the federal state of North Rhine-Westphalia, the employing institution shall, when calculating the relevant pay grade of the pay scale pursuant to Section 16 TV-L (if applicable, pursuant to Section 40 no. 5 TV-L), count the previous periods as if the employee concerned had completed these at the employing institution. The time already completed at the current pay grade at the former university shall also be considered to have been completed at the employing university.

(2) The universities are also obliged to make it possible to "transfer" probationary salary increases (Bewährungsaufstieg) already achieved pursuant to the *Amendment Collective Agreement* of 1 March 2009 by means of references in the contracts of employment.

(3) Paragraphs 1 and 2 shall apply correspondingly to a transfer of employees of the universities run by the federal state of North Rhine-Westphalia to the public service of the federal state or vice versa.

Article 2

Probationary period when transferring between universities run by the federal state of North Rhine-Westphalia

(1) The instrument of the probationary period will continue to be used only with special care and according to narrow criteria. The universities shall find solutions to reduce the transfer risks for the employees concerned in the event of a change of institution. In doing so, they shall consider the fact that the transferring employees have already undergone a probationary period at a transferring university with a positive result. They shall also consider the fact that, prior to the universities becoming independent, a probationary period at the receiving university was not permitted in the case of a transfer of university within the federal state.

(2) Subsection 1 shall also apply in the event of a transfer from the service of the federal state to a university run by the state of North Rhine-Westphalia or in the event of a transfer from such an institution to the Ministry.

Section 2

Securing the guiding principle of the employment category

Article 3

Employment conditions for student assistants

(1) In general, the university only employs student assistants for services in research and teaching and related administrative tasks. Student assistants provide support for research and for tasks related to research and teaching, e.g. by assisting with the organisation of courses, colloquia, conferences, tutorials, field trips and specialized internships, supervising student working groups and selecting and compiling course material.

(2) Job vacancies for student assistants are generally to be announced to those at the university.

(3) Further regulations on the employment conditions of student assistants which are more favourable to them shall remain unaffected. Only students who have not yet obtained a university degree qualifying them for a profession in the subject to which their position is assigned shall be employed as student assistants.

Article 4

Employment of research assistants

(1) Research assistants perform services in research and teaching as well as related administrative tasks in the Departments, the academic institutions or the operating units (Section 46 *Higher Education Act of the State of North Rhine-Westphalia*). In order to distinguish the employment category research assistant from the other categories, the university shall apply the differentiation criteria of the Official Statement

Section 46 of the *Higher Education Act*. When employing research assistants, the respective subject-specific conventions may be considered within the framework of these criteria.

(2) Graduates holding a professionally qualifying first degree may be employed as research assistants.

(3) The following shall apply to graduates with a Master's degree or a comparable degree:

1. The university shall follow the guiding principle that, in the case of these graduates, employment as a research assistant should be preferred in general.

2. These graduates may be employed for a maximum of three years, unless the local subject-specific conventions provide for a shorter duration; if they do not indicate such employment, they shall not be employed as research assistants. Further details shall be regulated by a concept agreed with the local staff council. The proportion of employment in the category of research assistants in relation to total full-time equivalent employment shall not be increased.

3. Existing employment relationships shall remain unaffected pursuant to Article 17 subsection 1.

(4) After the completion of a doctorate, employment as a research assistant is not possible.

(5) The university shall take appropriate actions to prevent the improper employment of research assistants.

(6) When they are hired or their contracts are extended, research assistants are informed about the crediting regulations in the *Academic Fixed-Term Contract Act* (Wissenschaftszeitvertragsgesetz) with regard to the consequences of their weekly working hours under the law on fixed-term contracts.

Article 5

Granting lectureships

(1) Lectureships may be granted for teaching assignments not covered by full-time lecturers. In principle, contract lecturers may not be entrusted with tasks of full-time staff which are permanently performed in accordance with the staffing plan pursuant to Article 7 subsection 3.

(2) The university shall endeavour to ensure that language training, in particular in the standard languages (English, French, Spanish), which is compulsory under the university regulations, is as a rule provided by full-time teaching staff and not predominantly by contract lecturers. This can only be done as far as the financial framework conditions allow.

(3) Guidelines for granting lectureships are:

(a) The remuneration of lectureships shall consider any of its associated examination activities.

b) As a rule, a lectureship shall not exceed 8 semester hours (45 minutes) per person.

c) Lectureships may be granted over a period of several semesters.

d) The university shall grant contract lecturers access to its advanced training in university didactics; the university shall bear the costs of such advanced training, depending on its financial framework conditions.

e) The university shall offer the contract lecturers the possibility of obtaining insurance coverage in a private group accident insurance at their own expense.

Section 3

Part-time and Fixed-Term Contracts

Article 6

Part-time employment

(1) The university recognizes that part-time employment must be justified by objective reasons (budgetary, human resources and organizational necessities, the organization of good scientific practice, employees' working time requests) and in this respect are granted only to the extent necessary. In the case of employees who are working on their doctorate, the aim is for the extent of part-time employment to be at least in line with the German Research Foundation's guidelines on the payment of doctoral candidates. As a rule, part-time employment of staff covered by collective agreements shall be at least 50% of the regular collectively agreed working hours; exceptions shall be explained to the responsible staff council.

(2) Part-time employees who wish to increase their contractually agreed working hours shall be given preferential consideration when filling a corresponding vacancy, provided they have the same qualification, performance and skills, unless factual reasons require otherwise (in particular urgent operational reasons or working time requests of other part-time employees).

(3) The university undertakes to link family-friendly aspects with suitable means of personnel planning in such a way that part-time employees are not disadvantaged. It shall ensure this, among other things, by developing suitable plans for qualifications and for returning employees after family leave.

Article 7

General framework conditions of fixed-term contracts

(1) The university shall develop measures to increase acceptance in its institutions of the necessity for appropriate structuring of the terms of employment. Leaders in the academic field and in technology and administration have a special responsibility regarding a fair and transparent handling of fixed-term contracts and shall also fulfil this responsibility by establishing human resources development measures.

(2) Within the framework of its institutional responsibility, the university shall develop measures, in view of its financial condition, in order to be able to compensate, as far as possible, in particular for external risks with regard to the financing of internal employment (internal planning reserve; bridge funding).

(3) On the basis of a staffing plan to be drawn up, it shall be made possible to examine and decide for the individual job positions of the university whether a task is assigned to the respective position which is performed on a permanent or fixed-term basis, in particular also regarding its funding.

(4) Within the framework of equal qualification, performance and skills, fixed-term employees shall in principle be given preferential consideration when filling permanent employment positions at the respective university.

(5) Extensions of fixed-term employment shall be made at such an early stage that those concerned are not forced to register with the Federal Employment Agency as job-seekers three months prior to the termination of their employment.

Article 8

Special framework conditions for academic staff

The University considers advising academic staff on realistic employment possibilities at the university and in the academic sector to be an important management task and works to ensure that this is completed by the leaders of the university. This also includes supporting employees regarding career prospects by means of a selection of continuing professional development programmes and qualifications.

Article 9

Fixed-term regulations for academic staff

(1) Fixed-term contracts in accordance with the *Academic Fixed-Term Contract Act* shall take precedence over those in accordance with the *Part-time Employment and Fixed-term Contracts Act* (Teilzeit- und Befristungsgesetz). Unfounded fixed-term contracts in accordance with the *Part-time Employment and Fixed-term Contracts Act* shall be concluded only with special justification to the responsible staff council.

(2) As a rule, the duration of employment contracts under collective agreement with academic staff shall be at least 12 months.

(3) The terms of employment contracts with staff mainly financed by third-party funds shall be based on the term of the grant period of the third-party funds. As a rule, they shall be concluded for the duration of the project period or the existing project funds. Exceptions shall be justified to the staff council.

(4) For employments aimed at obtaining the qualification in the form of a doctorate, Article 10 shall apply with regard to their fixed-term contracts.

(5) Employments aimed at qualifying for a professorship after completion of a doctorate (postdocs) shall have a term of at least three years. The more extensive provisions of the *Higher Education Act* shall apply to junior professors employed under collective agreements. As a rule, employment shall be full-time.

(6) If the foundations for academic qualification (doctorate, Habilitation or comparable qualification) are developed within the framework of the employment relationship financed by third-party funding, the fixed-term regulations which apply to employment relationships aimed at obtaining a doctorate or qualifying for a professorship shall apply

to the term of the respective employment contract (i.e. subsection 5 for postdocs and Article 10 for employees working on doctorates), if the period of approval of the third-party funds is longer than the employment terms applicable under these fixed-term regulations.

(7) Interim measures to facilitate the transition of employees into a follow-up employment shall remain unaffected, in particular after completion of the qualification.

Article 10

Special regulations for doctoral staff

(1) As far as the financial and structural framework conditions allow, the university enables doctoral studies in an employment relationship that is regulated by the *Collective Bargaining Agreement for the Public Service of the Federal States*, if possible.

(2) Doctoral candidates who are to be offered a doctorate within an employment relationship shall be employed for an appropriate period of time so that they can achieve the qualification goal with the necessary skills and performance. This employment relationship shall cover an overall contract duration of several years, which allows the completion of a doctorate. External scholarship programmes remain unaffected.

(3) The doctoral candidates should be assigned tasks to a reasonable extent, which support the preparation of a doctorate. The share of these tasks should amount to at least one third of the respective working time. In the case of employment relationships financed by third-party funds, the allowance conditions must be observed.

(4) As a rule, the employment relationship has a total term of three years, regardless of its funding, unless a shorter term is in accordance with the respective subject-specific conventions. Two employment contracts may be concluded for the total term, with the first contract having a minimum term of one year. The second contract is concluded if there is no negative interim evaluation of the prospects of success of the doctoral project by at least two university teachers at the end of the first contract. In the case of a qualifying phase of more than three years, a further contract shall be concluded for the remaining period of the qualifying phase, provided that there is a positive prognosis by the supervising professorship for the completion of the doctoral project within the targeted contract term. The possibility of concluding further employment contracts for the completion of the doctorate remains unaffected. In the case of employment relationships financed by third-party funds, the allowance conditions must be observed.

Article 11

Fixed-term regulations for administrative and technical staff

(1) Fixed-term employment of administrative and technical staff are made primarily for objective reasons pursuant to Section 14 subsection 1 of the *Part-time Employment and Fixed-term Contracts Act* (Teilzeit- und Befristungsgesetz) and the other statutory provisions on fixed-term employment contracts.

(2) Unfounded fixed-term contracts in accordance with the *Part-time Employment and Fixed-term Contracts Act* shall be concluded only with special justification to the responsible staff council.

(3) The terms of employment contracts predominantly financed by third-party funds are based on the term of the grant period of the third-party funds. As a rule, they are concluded for the duration of the project or the existing project funds. Exceptions shall be justified to the staff council.

Section 4

Health management, further guidelines

Article 12

Establishment of an effective health management

(1) The university is expanding its health management, involving the staff council, the gender equality officer and the representative of persons with special needs; the university is developing plans and is striving for corresponding service agreements. The parties agree that the *Directive on the Implementation of Rehabilitation and Participation of Persons with Special Needs* (SGB IX) in the public service in North Rhine-Westphalia shall also fully apply to universities operated by the federal state of North Rhine-Westphalia.

(2) Health management is an established responsibility of the university as an employer and is aimed at maintaining and strengthening the health of employees. The primary objective of “occupational health” is to initiate and support health-promoting living and working conditions. It focuses on leadership, university culture, working atmosphere, social competence, working conditions and overall health.

Article 13

Standing committee, further development

(1) A standing committee with twelve members will be established to evaluate and further develop this agreement. Four members each shall be nominated by the universities, the state staff council conferences and the Ministry. Each of these parties may include up to three persons as advisory members without voting rights. The chair is held by the Ministry. The committee shall be convened at the request of one of its three member parties, otherwise regularly by the chair. It may adopt its own rules of procedure. Decisions of the committee shall require a majority vote in each of the three member parties.

(2) The parties agree that this agreement is important for the implementation of good employment conditions at universities operated by the state. This agreement and its implementation are to be evaluated by the standing committee four years after it becomes effective. One aim of this evaluation is to examine the implementation of the provisions with regard to their social and organizational effects in particular. The precise scope of the evaluation, including the decision on the involvement of external experts, will otherwise be agreed by the standing committee.

(3) Regardless of the evaluation pursuant to subsection 2, the standing committee may, in particular, submit proposals to the parties in order to improve the implementation of this agreement. It shall also draw up proposals for the further development of this agreement. The parties are not bound by these proposals.

(4) Mutually agreed written amendments, in particular for practical implementation and further development, may be agreed between the parties at any time.

Article 14

On-site deviations in case of correspondence and inter-Faculty degree programmes

(1) In justified exceptional cases, the university and the responsible local staff council may agree on regulations for correspondence and inter-Faculty degree programmes which deviate from the regulations of articles 4 and 5 applicable to contractual lecturers and which may be less favourable; the standing committee pursuant to article 13 may reserve the right that such regulations shall not become effective until they have been approved by the committee.

(2) If there is reasonable need for further deviations, the agreement between the university and the responsible local staff council requires the approval of the standing committee pursuant to article 13 in the form of the consent of all three member parties (universities; state staff council conferences; Ministry).

Article 15

Change in conditions; frustration of contract

(1) If, in particular, the financial conditions of the university have changed so substantially that the implementation of this agreement is partly or fully impossible or only possible under very difficult conditions, the university may discuss with the Ministry about how to remedy the situation or how to assess the partial or absolute impossibility of giving effect to this agreement.

(2) If the Ministry and the university assess the partial or absolute impossibility of giving effect to this agreement, the Ministry shall inform the standing committee referred to in article 13. If the majority of the committee members appointed by the state staff councils are of the opinion that there is no such impossibility, the Ministry shall decide in view of its constitutional responsibility to guarantee higher education.

(3) If partial or absolute impossibility of giving effect to this agreement has been determined by the standing committee or the Ministry pursuant to subsection 2, the obligation to implement this agreement shall cease with respect to the provision deemed impracticable. The obligation shall be revived if the conditions that led to the partial or absolute impossibility of giving effect to this agreement have changed in such a way that its implementation is possible again. If there are doubts whether this case has occurred, the standing committee shall decide.

(4) The provision concerning the frustration of contract pursuant to Section 60 of the *Law of Administrative Proceedings* for the federal state of North Rhine-Westphalia shall remain unaffected.

Article 16

Entry into force, application with regard to employment, duration

(1) This agreement shall enter into force upon signature.

(2) The provisions of this agreement shall not have any direct effect on the legal relationships under labour law between the university and its employees or on the legal relationships under public law between the university and its contractual lecturers. Therefore, no rights and obligations arise directly from this agreement for these employees and contractual lecturers.

(3) The conditions of employment of those employees who are already employed by the university at the time this agreement comes into effect shall initially continue to apply. The university shall adapt these conditions of employment to this agreement within a period of two years by applying the given measures of labour law (in particular contract amendment; change in company practice). This period may be extended in agreement with the responsible staff council.

(4) With regard to termination:

1. this agreement may be terminated by the contracting parties with six months' notice for the first time after the expiry of a period of two years.

2. prior to the expiry of the first two years, this agreement may be terminated by the contracting parties only for good cause shown. At the request of one of the member parties of the standing committee, for example due to reasonable doubt as to the existence of good cause, the reasons supporting the existence of good cause shall be explained to the committee. Until a new agreement becomes effective, the terminating party shall endeavour to continue to apply the provisions of this agreement.

3. In the event of termination pursuant to (1.), the terminating party shall state its reasons and indicate whether it is terminating the entire agreement or whether it is terminating individual provisions; in the latter case, it shall specify these provisions. Until a new agreement becomes effective, the terminating party shall endeavour to continue to apply the provisions of this agreement. If the termination does not cover the entire agreement, the other provisions shall continue to apply to the terminating party until a new agreement has been concluded.

4. At the latest after the evaluation pursuant to article 14 subsection 2, the universities, the state staff council conferences and the Ministry shall review and undertake further development of this agreement.

Article 17

Concluding provisions, Severability

(1) The provisions of this agreement shall not have a detrimental effect on employment relationships already existing at the time of their entry into force.

(2) Should any provision of this agreement be invalid, this shall not affect its validity in other respects. The parties undertake to replace an invalid provision with a new, valid provision which comes as close as possible to the meaning and purpose of the original provision.

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