

Statutes on Appointing Professors and Junior Professors (Appointment Regulations) of 16 January 2019

as of: 16.01.2019

On 16 January 2019, Technische Universität Berlin's Academic Senate adopted the following statutes in accordance with Section 101 (8) of the Berlin State Higher Education Act (*Berliner Hochschulgesetz* – BerlHG) in the version of 26 July 2011 (Berlin Law and Ordinance Gazette - GVBl., p. 378) last amended by article 6 of the Act of 2 February 2018 (GVBl., p. 226) and the Constitution of Technische Universität Berlin, last amended on 13 December 2017, TU Official Gazette no. 18/2018, p. 177): *)

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*) Approved by the Executive Board of Technische Universität Berlin on 18 January 2019, and by the Senate Administration for Higher Education and Research on 9 January 2019.

Introductory provisions

Section 1 - Scope of application

- (1)¹These Regulations govern the principles, structures, and procedures for appointments to professorships and junior professorships at Technische Universität Berlin. ²The specific details regarding the tenure track procedure are set down in the Tenure Track Regulations. ³For tenure track professorships, the Tenure Track Regulations therefore apply and take precedence over these Regulations.
- (2) The legal basis for the appointment of professorships and junior professorships is, primarily, the Berlin Higher Education Act (*Berliner Hochschulgesetz* - BerlHG) and the Constitution of Technische Universität Berlin.

Section 2 - Basic principles

- (1) Professorships and junior professorships are filled exclusively on the basis of aptitude, qualification, and performance in the field without regard to age, gender, parentage or ethnic origin, disability, religion or belief, political views, background, relationships, or sexual identity.
- (2)¹The Executive Board is responsible for the legal supervision of the entire appointment procedure. ²The Faculties ensure that the competitive character of the procedure is maintained and that the procedure is transparent for applicants.

Section 3 - Women's representative

The statutory powers of the women's representatives under Section 59 BerlHG in conjunction with the Berlin Act on Equal Treatment (*Landesgleichstellungsgesetz* - LGG) remain unaffected.

Section 4 - Professorial appointment expert

- (1)¹The Executive Board or the dean may delegate up to two appointment experts to the appointment committee to assist in special cases. ²The appointment experts advise and support the appointment committee in meeting legal, formal, and organizational requirements.
- (2)¹Appointment experts are entitled to attend the meetings of the appointment committee and have the right to obtain information and to speak. ²They may inspect all documents relating to the proceedings.
- (3)¹By order of the chairperson of the appointment committee, other persons may be called upon to assist the committee's work. ²These persons have no right to speak, propose motions, or vote and are bound to maintain confidentiality.

Section 5 - Excluded persons and concerns of conflicts of interest

- (1)¹Members of an appointment committee as well as those persons participating with the right to obtain information, speak, and propose motions, and who, on the basis of the applications received, realize that they or other members have or may have grounds for exclusion or a conflict of interest with regard to candidates, are obligated to inform the chairperson of the appointment committee immediately. ²The members of the appointment committee as well as the persons participating with the right to obtain information, speak, and propose motions must make a written declaration to this effect. ³The appointment committee decides on whether to exclude the member of the committee in their absence.
- (2)¹The following are excluded from participation in an appointment committee
 1. Applicants
 2. Relatives of an applicant as described in Section 20 (5) VwVfG,
 3. Persons who have an economic interest in the appointment,
 4. Persons who are employed by an applicant for remuneration or persons who employ an

applicant for remuneration,

5. Persons who work with applicants, especially in business partnerships, office sharing, or similar arrangements.

²Notwithstanding the grounds for exclusion under subsection 2, sentence 1, the following persons may not take part in the appointment procedures under these Statutes:

1. The professor on whose replacement is to be decided, and his or her relatives as described in Section 20 (5) VwVfG,
2. Persons who have been in a mentoring relationship with an applicant in the last 10 years (e.g. teacher-student relationship up to and including the post-doc phase).

(3)¹A person may not participate in the appointment committee if there is justified reason to doubt the impartial exercise of office (concern about conflict of interest). ²The following in particular justify concern of conflict of interest:

1. Supervisory relationship (e.g. doctoral supervisor), which dates back more than 10 years,
2. Employee/supervisor relationship within the last five years,
3. Participation in peer reviews in which reviewers and authors are mutually known by name,
4. Close scientific cooperation (also in preparatory phases) independent of the time period, e.g. implementation of joint projects or joint publications,
5. Participation in mutual appointment procedures,
6. Scientific competition or common economic interests,
7. Close friendly contacts or conflicts.

(4) The excluded members shall be replaced by appointed representatives.

(5)¹The above provisions regarding exclusion and concern of conflict of interest apply accordingly to participation in votes in the other committees in the subsequent appointment procedure. ²They apply equally to deputy members and, accordingly, to other persons working for TU Berlin in an appointment procedure.

Appointing Professors and Junior Professors

Section 6 - Active recruitment

- (1)¹In consultation with the faculty women's representative, Technische Universität Berlin identifies qualified applicants for the recruitment of nationally and internationally renowned scientists and researchers and actively approaches them on the basis of the call for applications. ²The dean or the chairperson of the appointment committee must document how and when the systematic candidate search was conducted and how the person was approached.
- (2)¹The staff unit of the Executive Board responsible for appointments can discuss with the faculty, within the framework of allocating the position, how suitable researchers at the national and international levels can be recruited to take part in an appointment procedure. ²It is also possible to use external service providers.
- (3)¹In institutes where less than 30 percent of the professorships established in the TU Berlin budget are held by women, measures as defined in subsections 1 and 2 must always be implemented to actively recruit female academics. ²If a professorship is not assigned to an institute, the faculty is used as a reference value.
- (4) Active recruitment measures are also always to be pursued if there are fewer than ten qualified applicants.

Section 7 - Call for applications

(1)¹The call for applications is to be published internationally in German and English. ²If the call for applications is to appear in print media, it must be published at least in German and include an abridged text of the call for applications. ³The abridged text must contain a reference to the full text of the call for applications in German and English on the TU Berlin homepage.

- (2) The text of the call for applications must contain at least the following information:
1. the scope of duties and requirements of the candidate,
 2. the pay grade,
 3. the time limit of the contract, if applicable,
 4. the expected date of appointment,
 5. a reference to the conditions of employment according to Sections 100 or 102a BerlHG,
 6. a reference to the documents to be submitted by the applicants (e.g. teaching portfolio, teaching and research concept),
 7. an instruction to address the application to the dean,
 8. an application deadline of at least four weeks,
 9. the information required by the LGG and SGB IX,
 10. general additions to calls for applications required by the Executive Board.

Section 8 - Exemption from the requirement to advertise a professorship

- (1) Pursuant to Section 94 (2) BerlHG, the Executive Board may, with the consent of the Senate Administration responsible for higher education institutions, allow exceptions to the requirement to advertise a professorship in individual cases, while respecting the rights of the women's representative and the goal of equality.
- (2) A request for such an exemption is decided by the faculty board with the participation of the faculty women's representative and submitted to the Executive Board together with the request for approval for the professorship.

Section 9 - Particular exemptions from the requirement to advertise a professorship

- (1) In addition to the cases specified in Section 94 (2), numbers 1-4 BerlHG, the Executive Board may, with the approval of the Senate Administration responsible for higher education institutions, permit an exemption to the requirement to publish a call for applications, especially in the following cases:
1. when filling management positions within the framework of joint appointments, provided that the non-university research institution has already published a public announcement of a position that does not restrict the circle of applicants and that shows indisputably that the advertised position is intended to be used to appoint a professor,
 2. when filling temporary W2 professorships with junior research group leaders and recipients of ERC Starting Grants,
 3. when filling professorships with ERC Advanced Grant recipients and Alexander von Humboldt Professorship award recipients,
 4. for professors employed as civil servants or on fixed-term contracts if the professorship is to be granted to them again as a temporary civil service or fixed-term contract as long as the requirements for the fixed-term appointment in accordance with Section 102 (2), sentence 1 BerlHG are continuously met.
- (2) With reference to Section 94 (2), sentence 1, numbers 1 and 2 BerlHG, no appointment to a life-time professorship can be made without having successfully participated in a selection process at least once in the context of a call for applications for a professorship.
- (3) ¹If, according to Section 94 (2), sentence 1, number 3 BerlHG, outstandingly suited persons are to be appointed, in whose recruitment TU Berlin has a special interest due to their previous scientific or artistic achievements, these achievements are to be examined by the appointment committee on the basis of a list of criteria. ²For these individual case decisions, the highest demands must be placed on subject-area and pedagogical qualifications. ³To examine the outstanding qualification of the person, the appointment committee shall request at least 4 external expert opinions.
- (4) The provisions of Section 9 shall be evaluated 6 years after these Statutes enter into force.

Section 10 - Establishment and composition of the professorial appointment committee

- (1)¹A committee is appointed by the faculty board to conduct the appointment procedure and to prepare a proposal for the faculty board. ²The appointment committee should be constituted by the dean before the application deadline. ³At the constituent meeting, a chairperson and a deputy chairperson shall be elected from among the members. ⁴The members of the committee and their deputies are appointed by the representatives of their member groups in the faculty board and their appointments submitted to the dean. ⁵Membership in the committee ends when the candidate offered the appointment accepts or the appointment procedure is terminated for other reasons.
- (2)¹The committee should consist of at least 7 persons, and the majority of the members must belong to the group of university professors. ²The appointment committee should include female academics, if necessary also female academics who are not members of the University. ³In order to broaden its expertise, international and external university professors should be represented on the committee as voting members. ⁴The members of the committee from the group of office and technical staff are not entitled to vote on decisions which directly affect the selection of suitable applicants or candidates, but they do participate in an advisory capacity.
- (3)¹The faculty women's representative is entitled to participate in the meetings of the committee with the right to obtain information, to speak, and to propose motions. ²The women's representative must be invited and informed in the same manner as the committee members.
- (4)¹If there are applications from persons with severe disabilities or persons of equivalent status, the representative for staff with disabilities must be invited to the committee meetings. ²They may participate in the meetings with the rights to obtain information, speak, and propose motions.
- (5) The members of the Executive Board and the dean have the right to speak, obtain information, and propose motions to the committee.
- (6)¹If a professorship is to be filled jointly with a non-university research institution, it is possible, depending on the contractual arrangements, to set up a joint appointment committee or an appointment committee at TU Berlin and a selection committee at the non-university institution. ²Subsections 1 to 5 apply accordingly for setting up a joint committee. ³Members of the non-university institution shall have voting rights in the group of university professors if they are university professors or have earned a *Habilitation*. ⁴Voting rights may be exercised in the group of academic staff members if the member has at least one academic degree. ⁵Otherwise, the members may participate in an advisory capacity without voting rights. ⁶If there are separate committees, the rules on appointment applicable to the parties concerned shall apply.

Section 11 - Meetings of the appointment committee

- (1) The appointment committee shall meet exclusively in closed sessions.
- (2) Invitations to meetings are issued by post or email by the chairperson or the dean.
- (3)¹The members are to be informed by the chairperson or the dean of how to view the application documents and reviews, which are to be treated as strictly confidential. ²The chairperson of the appointment committee or the dean of the faculty shall expressly draw the attention of the members to confidentiality and shall record having done so. ³Knowledge about persons acquired through participation in the committee shall also be treated in strict confidence.
- (4) A quorum shall exist if at least half of the members entitled to vote and the majority of the members belonging to the group of university professors are present. Only members of the committee who are physically present in the meeting room and entitled to vote may vote.
- (5)¹Decisions that directly affect the appointment of university professors require a majority of the appointment committee as well as a majority of the university professors on the appointment committee. ²Voting on the shortlist of candidates must always be conducted in secret (Section 47 (4), sentence 2 BerlHG)
- (6)¹All meetings and negotiations of the appointment committee, including the interviews, must be fully documented. ²The results of voting shall be recorded, with special reference to the votes of the university professors. ³If the minutes of a meeting are not sent by the chairperson to the

members within 18 working days for approval at a subsequent meeting or by circular letter, the meeting shall be deemed canceled and all decisions made during the meeting shall be invalid.

Section 12 - Selection by the committee and interview procedure

- (1) Before examining the applications received, the committee shall decide, on the basis of the call for applications, the selection and exclusion criteria and the weighting of the selection criteria.
- (2) Applications received after the deadline for applications has expired (Section 7 (2), number 9) should also be considered by the appointment committee, provided that it has not yet started the selection process (comparison of the selection criteria with the applications).
- (3) ¹The committee shall examine whether the applicants fulfill the hiring requirements according to Section 100 BerlHG for a professorship or according to Section 102a BerlHG for a junior professorship, and determine the candidates' aptitude in their field. ²Applications which fail to meet these requirements shall be excluded by the committee's decision, and the relevant justification in each individual case must be documented.
- (4) ¹From the remaining applications, the committee will select candidates to be invited to an interview. ²In institutes in which less than 50 percent of professorships and junior professorships are held by women, either all female applicants who meet the requirements of subsection 3 shall be invited to interview or at least as many women as men. ³If a professorship is not assigned to an institute, the faculty is used as a reference value. ⁴Applicants with severe disabilities shall be invited to interview if they meet the requirements set out in subsection 3. ⁵The representative for staff with disabilities must be consulted on the decision.
- (5) ¹The interview procedure is divided into a teaching demonstration, a lecture in the subject area, and an interview with the committee. ²University members are invited to attend the lecture and the teaching demonstration.
- (6) ¹Lectures, teaching demonstrations, and interviews must take place under the same conditions for all applicants and the key elements and contents are to be documented. ²At the request of the appointment committee or the applicant, the lecture, teaching demonstration, and interview can be held in English in whole or in part.
- (7) ¹After the interview and lectures, the committee shall decide which of the invited candidates are to be reviewed. ²The appointment committee may take into account the students' comments on the teaching demonstration. ³The committee shall document and give reasons for its decision.

Section 13 - Academic review

- (1) ¹The committee shall decide on the achievements of the applicants remaining after the interviews by means of at least two written, usually comparative, expert reports completed by external scientists or researchers. ²The selection of the reviewers is made by the committee and must be documented. ³Gender parity should be taken into account when selecting the reviewers. ⁴It is recommended that at least one expert report be obtained from an international academic.
- (2) ¹The aspects of exclusion detailed in Section 5 (2) and concerns of conflicts of interest detailed in Section 5 (3) that apply to committee members shall be taken into account when selecting the reviewers. ²The reviewers will be invited by the chairperson of the committee to make a statement on their conflict of interest.
- (3) The reviewers may not be informed of any preliminary ranking of candidates by the committee.

Section 14 – Final ranked shortlist of candidates, minority votes

- (1) ¹After receiving the reports, the committee uses them to decide on a shortlist. ²The list places the names of three applicants in order; non-disclosure notes for list places are not permitted. ³Reasons must be given for inclusion or non-inclusion in the list and for the ranking among the listed candidates. ⁴For those placed on the list, additional scientific achievements and teaching aptitude must be documented. ⁵The chairperson of the committee is responsible for preparing and adopting the final report.
- (2) If the proposal for a shortlist is only approved by a majority of the university professors who are members of the committee, but not a majority of all of the members of the committee, the majority of members may decide on an alternative list which does not require the approval of the

majority of university professors (Section 47 (3), sentence 3 BerlHG).

- (3) ¹The faculty women's representatives comment on the appointment list and the reasons given by the appointment committee. ²The final report of the appointment committee as well as all minutes and reports must be submitted to the women's representatives at least one week before the documents for the faculty board meeting in which the appointment list is to be decided. ³In agreement with the faculty women's representative, this deadline may be deviated from. ⁴The women's representatives ensure that their opinion is available in time for the decision by the faculty board. ⁵The representative for staff with disabilities may issue their own opinion on the committee's list of candidates if applications have been submitted by persons with severe disabilities.

Section 15 - Decision on the shortlist

- (1) ¹The extended faculty board decides on the shortlist (Section 70 (5) BerlHG). ²University professors belonging to a faculty are to be invited by post or email 14 days prior to all faculty board decision-making sessions regarding appointment nominations. ³University professors who are not members of the faculty board are required to declare their intention to participate in writing within one week. ⁴There is no legal obligation to participate in decisions as per Section 54 (1). ⁵Should they not declare their intention, or if they fail to do so within the prescribed period, these professors are no longer able to participate in the decision process referred to in the invitation.
- (2) ¹Invitations also include the option to inspect the relevant files. ²Inspection of the files shall be granted within the invitation period pursuant to Section 54 (1), sentence 2. ³In order to enable a proper right of inspection, the dean shall make detailed provisions regarding the place and duration of the inspection.
- (3) Faculty professors who are not members of the faculty board are granted the same rights and duties regarding participation in decision-making pursuant to subsection 1 as members of the faculty board with right of participation in decision-making.
- (4) ¹In matters pursuant to subsection 1, the quorum shall be determined in accordance with Section 56 of the Constitution of Technische Universität Berlin. The minutes taken of decisions pursuant to subsection 1 shall include the names of the participating professors.
- (5) ¹The extended faculty board may adopt the shortlist of the appointment committee and the reasons provided, accept the proposed list according to Section 14 (2), or make its own ranking of the candidates. ²The extended faculty board may return the procedure to the appointment committee or request that the dean obtain an additional report. ³If the extended faculty board's decision differs to that of the appointment committee, a factual justification must be provided, which, based on the selection criteria, must discuss the recommendations of the appointment committee as well as the available and additionally obtained reports and statements.
- (6) If the shortlist is approved only by the majority of the university professors belonging to the faculty board, but not the majority of the members of the faculty board, the majority of the faculty board may decide on an alternative shortlist which does not require the approval of the majority of the university professors.

Section 16 - Procedure in the Executive Board

- (1) The faculty board's decision and the appointment proposals are submitted to the member of the Executive Board responsible for appointments, together with all documents of the applicants, the documents of the appointment committee, the reports, and any statements.
- (2) The member of the Executive Board responsible for appointments gives the Academic Senate the opportunity to comment on the faculty's appointment proposals.
- (3) Provided that there are no legal objections, the member of the Executive Board responsible for appointments forwards the appointment proposals to the member of the Berlin Senate responsible for higher education institutions for examination and with a request for an appointment offer to be made (Section 101 (3) BerlHG).
- (4) ¹If the member of the Berlin Senate responsible for higher education institutions notifies the University of their intention to deviate from the appointment proposals pursuant to Section 101 (4), sentence 2 or Section 101 (7), sentence 1 BerlHG, the member of the Executive Board

responsible for appointments shall give the extended faculty board the opportunity to submit a statement. ²The statement of the extended faculty board shall be submitted to the Berlin Senate member responsible for higher education institutions, in addition to a statement by the member of the Executive Board responsible for appointments.

Section 17 - Appointment offer and notification of other applicants

- (1) Once the member of the Berlin Senate responsible for higher education institutions appoints a university professor (Section 101(1) BerlHG), the member of the Executive Board responsible for appointments informs the other candidates on the list, the faculty, and the other applicants about the result of the procedure. ²The notification of the unsuccessful applicants must be recorded.
- (2) ¹If an applicant refuses the appointment offer, the president shall immediately forward this information to the member of the Berlin Senate responsible for higher education institutions. ²After consultation with the dean of the faculty, the responsible member of the Berlin Senate is asked to offer the appointment to the next applicant on the list.

Section 18 - Terminating the appointment procedure

The faculty board may discontinue the appointment procedure by stating a substantive reason; this requires the consent of the member of the Executive Board responsible for appointments.

Section 19 - Contract negotiations

- (1) ¹Negotiations on the equipment, space, and staffing of the professorship are conducted by the dean in consultation with the member of the Executive Board responsible for appointments and the vice president for administration. ²The negotiations on remuneration and the granting of performance benefits shall be conducted jointly by the member of the Executive Board responsible for appointments and the vice president for administration.
- (2) As part of the appointment target agreements, measures to support quality assurance and the further development of teaching quality should also be agreed upon.
- (3) At the same time as the binding offer of resources is made, an applicant may be given a deadline, which shall not be less than 4 weeks, to accept the appointment.

Retaining professors after an appointment offer from another university

Section 20 - Retaining professors

- (1) ¹The president may, with the consent of the faculty, offer to enter into retention negotiations if these are necessary in order to dissuade a professor from leaving the University. ²For this purpose, the external appointment offer shall be submitted to the president, including the external offer of material and personnel resources as well as personal remuneration and pension benefits. ³Retention negotiations can only be offered if the external offer clearly exceeds the current resources and personal remuneration. ⁴The principles applicable to material resources at Technische Universität Berlin shall be applied.
- (2) Retention negotiations may only be offered a reasonable time after the last retention or appointment negotiation.
- (3) ¹In order to dissuade a TU Berlin member from accepting an external appointment offer of a professorship as a civil servant for life or on an unlimited contract, the member of the Executive Board responsible for appointments can, with the agreement of the faculty, also enter into retention negotiations with
 - junior professors,
 - research associates in the function of a junior research group leader, or
 - professors in a temporary civil service or fixed-term employment relationshipwith the aim of offering them a professorship as a civil servant for life or on an unlimited contract at TU Berlin. ²Junior professors as well as research assistants in the function of a junior research

- group leader should fulfill the requirements of Section 101 (5), sentence 1 BerlHG. ³If the external appointment is successfully averted, the allocation and appointment procedures shall be combined in accordance with this section.
- (4) The proposal pursuant to Section 21 (1), sentence 1, number 2 of the Constitution of TU Berlin for determining the purpose of the position to which the person is to be appointed to dissuade them from accepting the external appointment, can be decided by the managing director of the responsible institute as an urgent matter.
 - (5) Based on the proposal of the appointment committee, the faculty board of the responsible faculty - in its extended composition in accordance with Section 54 of the Constitution of TU Berlin - decides on the appointment proposal ad personam at the same time as it decides on the proposal for determining the purpose of the position. There is no need to refer the matter to the Structural Committee.
 - (6) On the recommendation of the Academic Senate and in agreement with the member of the Berlin Senate responsible for higher education institutions, the Executive Board shall approve the professorship, shall at the same time obtain approval for the exemption from the requirement to publish a call for applications pursuant to Section 94 (2), sentence 1, numbers 1, 2, or 4 BerlHG, and shall forward the appointment proposal.
 - (7) The procedure under subsection 1 et seq. requires that the faculty responsible have a vacant post for a university professor or a post which can be filled ahead of schedule to which the appointment can be made.

Section 21 - Special provisions for retaining professors

- (1) ¹If a professor working full time at Technische Universität Berlin in a W2 or C3 professorship presents an external appointment offer for a professorship or other higher-level external employment offer and is then to be appointed to a higher-level professorship as a result of retention negotiations, the Executive Board shall inform the faculty board. ²The faculty board initiates an approval procedure and prepares an appointment proposal for the higher-level professorship, waiving the call for applications.
- (2) In the procedure, an interview and teaching demonstration can be waived if the applicant has been teaching at Technische Universität Berlin for at least 4 years and positive teaching evaluations can be presented to the faculty board.

Final provisions

Section 22 - Publication and entry into force

These Statutes will come into effect the day after publication in the Official Gazette of Technische Universität Berlin.