

PROVISIONS ON IMPARTIALITY AND CONFIDENCE

Employees at the Faculty of Humanities are subject to the provisions relating to impartiality in Chapter II of the Public Administration Act "Concerning Disqualification". These provisions also apply to external individuals who are members of expert committees in connection with appointment and advancement matters. In addition, the faculty has adopted its own provisions on impartiality and confidence. These provisions are somewhat stricter than the provisions of the Act on some points.

The most important provisions concerning the assessment of one's own impartiality are as follows:

Definition

In these provisions a **party** is defined as *a person to whom a decision is directed or whom the case otherwise directly concerns*, cf. section 2 e of the Public Administration Act. In appointment and advancement matters, the applicants are parties to the matter.

Requirements as to impartiality and decisions concerning the question of disqualification

Automatic disqualification

An employee at the Faculty of Humanities or member of an expert committee shall be disqualified from preparing the basis for a decision or making any decision in a matter

- a) if he or she is related by blood or by marriage to a party in a direct line of ascent or descent, or in a collateral line as close as a sibling
- b) if he or she is or has been married to or a registered partner of a party, is engaged to or cohabitates with a party, or is the foster parent or foster child of a party
- c) if he or she is the guardian or agent of a party to a matter or has been the guardian or agent of a party after the matter arose
- d) if he or she is, or has less than three years ago, been an academic advisor to a party working towards a doctorate.

Disqualification based on a discretionary assessment

Employees at the Faculty of Humanities or a member of an expert committee shall be disqualified from preparing the basis for a decision or from making any decision in a matter *if there are any special circumstances which are apt to impair confidence in their impartiality.*

When assessing disqualification, due regard shall be paid to whether the decision in the matter may entail any special advantage, loss or inconvenience for the individual involved personally or for anyone with whom he or she has a close personal association. Due regard shall also be paid to whether any objection to the individual's impartiality has been raised by one of the parties.

Assessment of impartiality in general

The task of assessing impartiality will always require the exercise of a certain measure of discretion. When considering the question of disqualification, the following general questions must be asked:

- a) Are there any circumstances pertaining to the matter that may impair or be assumed to impair the individual's professional judgment?
- b) Are there any circumstances pertaining to the matter that there may be reason to assume are apt to impair confidence in a decision if an individual takes part in the decision?

Due regard must be paid to whether the decision in the matter may entail any special advantage, loss or inconvenience as a result of the outcome in the matter.

A list of what circumstances should be assessed when determining whether a person should be disqualified is given below.

Points to check

Automatic disqualification

See the provisions pertaining to automatic disqualification above.

Close personal/professional association

A close personal friendship (must be more than just an acquaintanceship) with a person who is party to the matter will normally result in disqualification in relation to this party.

A person who has, or recently has had, close professional collaboration, including co-authorship, with a person who is a party to the matter, may be disqualified in relation to this party. Both the scope and proximity in time are components in the assessment of the closeness of collaboration/co-authorship. (see more about this under the section "Discretionary assessment of impartiality in detail" below)

- a) Potential personal gain/loss/inconvenience

To be disqualified, a person or someone with whom he or she has a close relationship (item b) must have a certain degree of personal interest in the outcome of a matter. The personal interest may be of a professional nature. It may be in an individual's own interests if his or her professional community is strengthened by the appointment of who they want, even if the individual is not the best qualified.

- b) Other special circumstances that are apt to impair confidence in a decision in which the individual has taken part.

Seen from the outside, are there any circumstances pertaining to the matter that may impair, or be assumed to impair, the individual's professional judgment, for example in relation to requirements relating to proper administrative proceedings, equal treatment, or objectivity? The essential question here has to be: *How does this look from the outside?* It must be an assessment that is based on more than loose assumptions and speculations. It must be seen as highly probable that someone will question a person's impartiality, and that this will diminish confidence in the actual decision taken.

It is essential that all relevant elements be considered in each individual case. The presence of several factors at the same time may indicate disqualification more clearly.

Discretionary assessment of impartiality in detail

When no grounds for automatic disqualification are present, it is important to consider impartiality based on discretionary assessment. There are a number of different factors to assess in this context, including whether the decision will entail any special advantage, loss or inconvenience for the individual involved, or whether there are any special circumstances that are apt to impair confidence in a decision in which the individual has been involved.

Some typical situations that are relevant in the context of appointment/advancement matters are discussed below.

A person who has, or until recently has had, close professional collaboration, including co-authorship, with a person who is a party to a matter, may be disqualified in relation to this matter. In this context, it is important to focus on how the dynamics of the specific discipline may determine what is considered to be "recent" collaboration.

A picture of what the collaboration actually entails must be established when disqualification due to co-authorship, participation in professional networks, etc., is to be assessed. An opinion must be formed as to whether the nature of the collaboration, the degree of closeness and cooperation, and the amount of time that has elapsed are of a nature that can lead to disqualification. It must be kept in mind that cooperation is in its essence dynamic, and there are many different types of relationships between people. Thus, it can be difficult to establish general rules for the discretionary assessment to be exercised. The key question is whether there is active, professional collaboration of a recent date.

The following may provide helpful guidance for discretionary assessment of potential disqualification:

- a) Ongoing close collaboration renders an individual disqualified.
- b) Co-authorship is normally assessed in the same way as other close professional collaboration. A large number of contributors to a publication and the role played by the individual in question may have an impact on this, and must be considered in each case. In general, the smaller the number of co-authors, the greater the likelihood of disqualification, but it should be noted that problems may still arise when there is a large number of co-authors as well.
- c) Co-authorship or collaboration within the past three years renders an individual disqualified, subject to the stipulations under the point above.
- d) Publication of different contributions within the same publication or collaboration more than three years ago will normally not result in disqualification, unless there is a general opinion that the earlier collaboration has created a lasting, close relationship (professional and/or personal). Discretion must be exercised here.

A person who has served as an academic advisor to a party working towards a doctorate more than three years ago must assess his or her impartiality in relation to item d. The same applies to individuals who are, or have been, academic advisors to a party working towards a degree other than a doctorate degree.