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Guidelines on Recusal in Professorial Appointments and Promotions

(Dated 29 May 2018)

I. Scope of Application

These Guidelines on Recusal in Professorial Appointments apply to all professorial appointment committees, professorial promotion committees and commissions responsible for statements on professorial positions (*Strukturkommissionen*) at UZH.

II. Importance of the Guidelines

1. The duty to recuse oneself from professorial appointment procedures is regulated by § 5a of the law on administrative procedures and jurisdiction (*Verwaltungsrechtspflegegesetz, VRG LS 175.2*), dated 24 May 1959, which states:

“Persons who are to make an appointment, or who are to participate in or prepare the appointment, must recuse themselves if they appear to have personal bias in the matter, in particular:

- a. if they have a personal interest in the matter;
- b. if they are directly or indirectly related to a party up to the third degree by blood, marriage, betrothal, registered partnership, cohabitation or adoption;
- c. if they represent a party or were active in the same matter for a party.

If a recusal is disputed, the supervisory authority decides on the recusal; if the recusal of a member in a collegial authority is at issue, this authority decides in the absence of the member in question.”

2. The Guidelines aim to facilitate consistent practice concerning recusal in professorial appointment procedures. They do not exempt the responsible governing bodies of the faculties from assessing the question of a recusal in all cases on the basis of § 5a VRG. Only the provisions of § 5a VRG are legally binding; if required by the particular circumstances of a specific case, these must be applied over and above the Guidelines set out herein.
3. When applying the provisions of § 5a VRG, it is important to consider that the duty to recuse was created to uphold principles of fairness, equal opportunity and transparency in appointment procedures. The formulation “appear to have personal bias” does not refer to bias in the sense of an individual’s personal feelings on a matter, but rather to whether a third party could interpret objective conditions as creating the appearance of bias.



III. Grounds for Recusal

4. Personal relationships as defined in § 5a para. 1 let. b and c VRG

The duty to recuse is mandatory without exception

- a. in the event of a personal relationship – as set out in § 5a para. 1 let. b VRG – between members of professorial appointment committees or external experts and persons taking part in the professorial appointment procedures;
- b. in the event of a representation relationship, as defined in § 5a para. 1 let. c VRG, between persons taking part in the professorial appointment procedure and members of the professorial appointment committee or external experts.

5. Personal interests as defined in § 5a para. 1 let. a VRG

A. As a rule, the duty to recuse applies to members of professorial appointment committees and external experts who

- a. are supervising, or in the last five years have supervised, the qualifying paper or junior academic position of persons taking part in the professorial appointment procedure;
- b. are involved, or in the last five years have been involved, in a working relationship or any similar dependent relationship with persons taking part in the professorial appointment procedure;
- c. are working, or in the last five years have worked, in the same branch for the same employer as persons taking part in the professorial appointment procedure.

B. The duty to recuse also applies, as a rule, to members of professorial appointment committees or external experts if

- a. a close friendship or conflict exists between a committee member or an external expert and a person taking part in the professorial appointment procedure;
- b. a person taking part in the professorial appointment procedure was involved in the professorial appointment or conferral of an honorary doctorate on the committee member or external expert concerned;
- c. they have publicly expressed opinions about persons taking part in the professorial appointment procedure in such a way that they appear to have personal bias.

6. Further personal interests as defined in § 5a para. 1 let. a VRG

The duty to recuse must be checked and determined by the committee in the case of committee members or external experts who

- a. work, or have worked, for the same employer at the same time as persons taking part in the professorial appointment procedure, but in a different branch/office;
- b. are active, or in the past twelve months have been active, as an expert for persons taking part in the professorial appointment procedure or for their employer;



- c. are collaborating, or in the past three years have collaborated, in scholarly projects or publications with a person taking part in the professorial appointment procedure;
- d. have vested interests in the appointment of persons who are taking part in the professorial appointment procedure;
- e. are in scholarly or commercial competition with a person taking part in the professorial appointment procedure.

7. Delimitation of Personal Interest

As a rule, no duty to recuse applies to members of professorial appointment committees or external experts who

- a. as a result of undertaking common activities are in a relationship reflecting social norms (e.g. first-name basis acquaintance) with persons who are taking part in the professorial appointment procedure;
- b. as a member of the Faculty Council, the Faculty Board, a commission of the faculty, or the Faculty Assembly have taken decisions related to the appointment procedure;
- c. are members of the same scholarly organization as persons taking part in the professorial appointment procedure;
- d. have passed expert opinion on the doctoral thesis or habilitation of persons taking part in the professorial appointment procedure, subject to the terms of item 5 A let. a.

IV. Procedure

- 8. The members of professorial appointment committees must advise the President at the time the list of candidates is determined whether there are potential grounds for a duty to recuse. The President ensures that the matter of duty to recuse is included as an agenda item for the meeting of the professorial appointment committee at which the list of candidates is decided.
- 9. The professorial appointment committees decide upon the duty to recuse based on objective criteria. Members whose duty to recuse is to be decided upon do not take part in the interview with the candidate or the deliberations and decision; they are required to leave the room.
- 10. Members of the professorial appointment committee who have a duty to recuse do not participate in the procedural steps described in item 9 for the period that the duty to recuse is upheld. The professorial appointment committees decide whether an application to change its composition is to be submitted to the faculty.
- 11. The decision on the duty to recuse, the grounds therefore, and the recusal of members of professorial appointment committees and external experts is to be recorded in the minutes.



12. If, during the professorial appointment procedure, existing grounds for recusal cease to apply or new grounds for recusal arise (e.g. due to a change in the list of candidates), the members of the professorial appointment committee are required to advise the President accordingly. The commission decides on the duty to recuse in line with items 8 and 9 of these Guidelines. If the duty to recuse is affirmed, items 10 and 11 of these Guidelines subsequently apply. If the duty to recuse is lifted, the relevant members recommence participation in the deliberations and decisions of the professorial appointment committee. The decisions are to be minuted.

V. Consequences of a Breach of the Duty to Recuse

13. If members of the commission who have a duty to recuse have participated in steps of the appointment procedure, the relevant steps must be repeated at the exclusion of such members. Trial lectures, however, must not be repeated.

VI. Final Provisions

14. The applicable time periods for the duty to recuse defined in item 5 A let. a–c may be amended by the faculties as appropriate to their particular circumstances. Equally, the terms set out in items 5–7 may be supplemented by the faculties as appropriate to their needs.
15. The grounds for amendments and additions must be specified and submitted for approval to the Executive Board of the University within six months of these Guidelines entering into force.