



UNIVERSITÄT
HEIDELBERG
ZUKUNFT
SEIT 1386

DISABLED EMPLOYEE REPRESENTATIVE

INFORMATION ON INVOLVEMENT IN STAFFING PROCEDURES



Representative for employees with severe disabilities or equivalent status

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COMMON DUTY OF REVIEW

According to § 164 par. 1 of the German Social Code IX (SGB IX), employers looking to fill vacated or newly created positions must ascertain whether these positions can be staffed with (severely) disabled persons registered with the German Agency for Labour.

To this end, the employer must consult with the Disabled Employee Representative, with the aim of jointly answering all relevant questions:

- Which positions are available?
- Which requirements must the position meet?
- Has the employment office suggested potential candidates?
- Should internal or external job advertisements be published?

Failure on the part of the employer to observe the information and consultation procedure constitutes an administrative offence pursuant to § 238 par. 1 no. 7 SGB IX.

DUTY TO GIVE REASONS

In reviewing vacant positions according to § 164 par. 1, employers must involve the Disabled Employee Representative pursuant to § 178 par. 2 and consult the representatives cited in § 176.

If an employer does not fulfil their duty of employment and if the Disabled Employee Representative or one of the representatives cited in § 176 does not agree with the employer's intended decision, the decision must be discussed with the representatives, and the reasons for the decision given. The (severely) disabled person concerned by the decision is consulted as well. The employer must inform everyone involved without delay about their decision, stating all reasons that led to said decision.

The Disabled Employee Representative shall not be involved in applications of (severely) disabled persons if the (severely) disabled person explicitly refuses such involvement.

RIGHT TO INSPECTION AND PARTICIPATION

In helping to ascertain whether vacant positions may be staffed with (severely) disabled candidates, the Disabled Employee Representative also has the right, pursuant to § 178 par. 2 cl. 4 SGB IX, to inspect job application documents and to take part in candidate interviews.

This regulation was introduced in 2004 to improve participation and allow for a better assessment as to whether candidates with severe disabilities or equivalent status are subject to discrimination.

The right to participation only applies if the employer has received at least one application by a (severely) disabled person. The purpose of this regulation is to allow the Disabled Employee Representative to issue a well-founded statement regarding the intended choice of personnel. To do this, the representative must be able to compare the suitability of the (severely) disabled candidates with that of non-disabled candidates.

According to the statement of reasons for the law, such a comparison can only be made if the Disabled Employee Representative is given access to the application documents of (severely) disabled and non-disabled candidates and allowed to take part in candidate interviews.