

14.9.2025

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Title

Die Vertretung von Belangen studentischer Hilfskräfte in Nordrhein-Westfalen : eine gesetzgeberische Fehlleistung? / Marco Penz

Publication year

2015

Source/Footnote

In: Wissenschaftsrecht. - 48 (2015) 3/4, S. 335 - 361

Inventory number

41926

Keywords

Studentische Hilfskräfte ; Hochschule und Staat : Nordrhein-Westfalen

Abstract

The article discusses the new § 46a which was introduced in the Higher Education Act of the state of North Rhine-Westphalia (Hochschulgesetz – HG NRW). This regulation obliges the universities to introduce an institutional representation of student research assistants (stud. Hilfskräfte) whose members are elected by students. In order to meet this obligation the universities of the state of North Rhine-Westphalia had to adjust their statutes by 30 September 2015. Against this background, the article analyses the statutes of twelve universities. All universities have amended their statutes in due time. In comparison, there are significant differences between the respective university statutes regarding the number of seats as well as regarding the session and the election itself. At some universities, all students are eligible to vote, at some only student research assistants are. Obviously, there is still a great uncertainty about the implementation of the legal requirements of § 46a HG NRW in the statutes of the universities. This is due to the wording of § 46a HG NRW which has been given a different meaning during the legislative process. As a result, the representation of student research

14.9.2025

assistants is similar but not identical to the staff council for civil servants (Personalvertretung). This demonstrates that the legislator did not want to enhance participation rights of student research assistants. However, the fact that the representatives are elected by students emphasizes the particular responsibility. Therefore, the representation of student research assistants under § 46a HG NRW is less than a staff council of civil servants but more than a representative appointed by the university's management. On the contrary, § 46a HG NRW constitutes a rule sui generis which is not comparable to other regulations of federal states. Nevertheless, it seems that the legislator has chosen the wrong approach to govern the representation of student research assistants. This issue the legislator aimed at solving concerns less the relationship between student and university but rather the relationship between employee and employer. For this reason an extension of the rules concerning the staff council of civil servants to student research assistants would be preferable. (HRK / Abstract übernommen)