

Clusters of Excellence Funding Line

Guide to Drawing Up Bylaws for Clusters of Excellence

Disclaimer: The English translation of this document is provided for informational purposes. In the event of a discrepancy between the English and the German versions, the German text takes precedence.

Preliminary note

The exclusive purpose of the bylaws of a Cluster of Excellence (EXC) is to regulate internal relations within the Cluster of Excellence. The relations of the EXC to the applicant university/universities and to other parties involved (external relations) are only partially addressed in this guide. They do touch on key concerns of the university, however. For this reason, the recommendation is that adoption of the bylaws should be preceded by an internal university dialogue in which such concerns are jointly clarified.

Relations between the EXC or the applicant university/universities (grant recipient) and the Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) are governed by the DFG's funding guidelines and forms:

www.dfg.de/foerderung/programme/exzellenzstrategie/formulare_merkblaetter

This guide to drawing up bylaws does not claim to be binding or complete. It provides support for Clusters of Excellence in defining the structures and processes required to manage the research project. The provisions formulated herein are merely suggestions that are to be fleshed out by the EXC together with the applicant university/universities and may be expanded on. Internal provisions of the EXC and those with an external impact (also within the university) can be combined or laid down in separate sets of regulations. Here it is important to take account of legal provisions such as those arising from state higher education acts and other regulations, including the internal provisions of the university. In the case of multiple applicant universities or multiple spokespersons, the bylaws are to be adapted accordingly.

Bylaws of the Cluster of Excellence <“Title”> of <applicant university/universities>

Preamble

The participation of numerous researchers and their affiliation to different departments/faculties of a university or a non-university research institution (as is frequently the case) necessitate a formal basis for the organisation of cooperation, and this is laid down in these Bylaws. The participants of the Cluster of Excellence (EXC) do not wish to create a legally independent entity of any kind, either through these Bylaws or otherwise, but only to define the internal structures and processes required for managing the research project.

In consultation with the management of the Cluster of Excellence <“Title”> and after prior consultation with the DFG, the <university body responsible> of <applicant university/universities> adopts the following Bylaws with the consent of the heads of the participating institutions:

§ 1 Status within <abbreviated title of the applicant university/universities>.

- (1) The Cluster of Excellence is a legally dependent <institution>¹ of <applicant university/universities> and bears the title <“Title”>. In addition to <abbreviated title of the applicant university/universities>, the following institutions are also involved as applicant university/universities in <abbreviated title of the Cluster of Excellence> <>
- (2) The managing university is <abbreviated title of the managing university>.

§ 2 Objectives of the Cluster of Excellence

The most important research and structural objectives of <abbreviated title of the Cluster of Excellence> are:

- <>

¹ Define legal status or integration in the applicant university/universities.

§ 3 Structure of the Cluster of Excellence

(1) The *<abbreviated title of the Cluster of Excellence>* is structured as follows:

<>

(2) The *<abbreviated title of the Cluster of Excellence>* may establish further organisational units within the framework of these Bylaws.

§ 4 Statutory bodies

The statutory bodies of *<abbreviated title of the Cluster of Excellence>* are:

1. the Cluster Council (§ 8)
2. the Steering Committee (§ 9)
3. the Spokesperson of ² *<abbreviated title of the Cluster of Excellence>* (§ 10)
4. the Academic Advisory Board (§ 12)

<further options:

5. *e.g. persons responsible for research units and organisational units³>*

§ 5 Participants

(1) The participants of *<abbreviated title of the Cluster of Excellence>* are the persons named in the proposal under “1.5 Principal investigators”.⁴

² The spokesperson authorised to represent the applicant vis-à-vis the DFG must be identified. In the case of more than one spokesperson, this is to be specified in the further course of the Bylaws (in particular in Section 9).

³ In the event of the inclusion of further statutory bodies, the Bylaws are to be supplemented with additional sections under Section 12, in which the tasks, composition and, where applicable, the election of the body is regulated in each case.

⁴ Other possible participants include those responsible for research units and organisational units (if defined under § 4), for example, and also professorships financed from EXC funds and heads of the independent junior research groups established by the EXC. For certain participants such as doctoral researchers, it is possible to draw up separate provisions regarding their right to vote and to stand for election.

- (2) Upon application, other persons may be included as participants of *<abbreviated title of the Cluster of Excellence>*⁵ providing they have demonstrated their ability to carry out independent research in the research field of *<abbreviated title of the Cluster of Excellence>*.⁶
- (3) The Steering Committee⁷ decides on admission to and exclusion from the Cluster of Excellence.
- (4) Participation in *<abbreviated title of the Cluster of Excellence>* ends when the participating person submits a written declaration of resignation to the Spokesperson. Participants may also be excluded from the Cluster of Excellence by the Steering Committee for good cause. This can include the following in particular:
- the conditions for participation set out in Section 2 do not apply
 - violation of the duties to cooperate set out in Section 7
 - change of location
 - *<sup>8>*

§ 6 Participants' rights

- (1) Participants are entitled to make use of the infrastructure and resources of *<abbreviated title of the Cluster of Excellence>* within the possibilities available.
- (2) They may participate in the use of the resources available to *<abbreviated title of the Cluster of Excellence>* in compliance with the procedure for the internal distribution of funds set out in § 15.
- (3) Participants of *<abbreviated title of the Cluster of Excellence>* may submit proposals to the Steering Committee for activities to be carried out within *<abbreviated title of the Cluster of Excellence>* or supported by *<abbreviated title of the Cluster of Excellence>*.

⁵ In this case, the application procedure is to be regulated accordingly.

⁶ As a further prerequisite, it should be specified that an employment relationship exists with a participating institution; this does not have to be linked to funding under the Cluster of Excellence, however. It is possible for researchers who are not employed by a participating institution to take on a participatory role; in which case, the question of voting rights must be clarified.

⁷ Insofar as this task has been assigned to the Steering Committee in § 9.

⁸ Further examples can be added.

§ 7 Participants' duties

- (1) Participants are obliged to work towards the objectives of *<abbreviated title of the Cluster of Excellence>* as set out in § 2 and its administration in accordance with these Bylaws.
- (2) Participating persons are obliged to report on a regular basis to the Steering Committee of *<abbreviated title of the Cluster of Excellence>* of *<abbreviated title of the applicant university/universities>*. In the event of the departure of a participant, the latter must submit a final report on the work funded under *<abbreviated title of the Cluster of Excellence>* within *<number>* months.
- (3) Participants are obliged to comply with the funding guidelines for Clusters of Excellence and with the other requirements specified by the DFG.

§ 8 Cluster Council

- (1) A Cluster Council is established to give participants the opportunity to be involved in shaping the Cluster's research and administrative development.
- (2) The Cluster Council is responsible for the following:
 1. adoption of the Bylaws and supplements to the Bylaws of *<abbreviated title of the Cluster of Excellence>* in agreement with the applicant university/universities
 2. election and de-selection of the Steering Committee and Spokesperson
 3. receipt of the Spokesperson's report
 4. adoption of the overall funding proposal of *<abbreviated title of the Cluster of Excellence>* to the DFG
 5. recommendation to terminate *<abbreviated title of the Cluster of Excellence>*
 6. *<further options e.g.: election of those responsible for research units and organisational units, determination of the procedure for the internal distribution of funds (§ 15), establishment of/appointments to committees>*
- (3) The Cluster Council includes all participants admitted pursuant to Section 5.

- (4) The Cluster Council decides on the election of the Steering Committee and the Spokesperson with a <quorum⁹>. The Cluster Council decides on the de-selection of the Steering Committee and the Spokesperson with a <quorum>. The Cluster Council decides with a <quorum>¹⁰ on the (supplements to the) Bylaws as well as on the recommendation to terminate <abbreviated title of the Cluster of Excellence>.
- (5) The Cluster Council usually adopts its resolutions at meetings. It is to meet at least <number> times per year. Meetings of the Cluster Council are to be convened by the Spokesperson in writing with a notice period of at least <number> days; the agenda is to be sent to all participants by no later than <number> days before the meeting. What is more, a meeting of the Cluster Council is also to be convened with the above-mentioned notice period at the request of <share> of the participants of <abbreviated title of the Cluster of Excellence>. The Spokesperson chairs the meetings and presides over them.

§ 9 Steering Committee

- (1) The Steering Committee is responsible for all tasks of <abbreviated title of the Cluster of Excellence> unless otherwise provided for in these Bylaws. In particular, it is responsible for the following tasks¹¹:
1. development and coordination of the research programme, coordination with the head of the university/universities
 2. preparation of the funding proposal to the DFG
 3. decision on the admission and exclusion of participants
 4. provision of advisory support for the Spokesperson on budgetary matters
 5. implementation and quality assurance of the procedures for the internal distribution of funds (cf. § 15)
 6. involvement in the hiring and dismissal of employees (by the university or participating institutions) who are paid from EXC funds
 7. planning and quality assurance of support structures.
 8. <>

⁹ Provisions are only necessary at this point if they are to deviate from the quorum specified in Section 13 para. 4.

¹⁰ Possible majorities in the case of votes, for example: majority of votes cast, majority of those present (alternatively: majority of members), two-thirds of those present (alternatively: majority of members).

¹¹ Catalogue of examples that can be supplemented or adapted.

- (2) The Steering Committee of *<abbreviated title of the Cluster of Excellence>* is made up of the following persons:
1. the Spokesperson with voting right
 2. the Deputy Spokesperson
 3. another *<number>* persons from the group of participants
 4. *<other members where applicable >*¹²
- (3) The term of office of the members of the Steering Committee is to be *<number>* years. Re-election is *<possible once / possible several times / not possible>*.
- (4) The Steering Committee is to meet at least *<number>* times per year.
- (5) The Steering Committee may appoint responsible persons from among its members to take on certain of the above-mentioned tasks. The Steering Committee may delegate the handling of such matters to a Head Office.
- (6) In consultation with the head(s) of the applicant university/universities, the Steering Committee may adopt Rules of Procedure *<which require the approval of the Cluster Council>*.

§ 10 Spokesperson

- (1) The Spokesperson is the chairperson of the Steering Committee and the Cluster Council of *<abbreviated title of the Cluster of Excellence>* and represents its interests internally and externally.
- (2) The Spokesperson of *<abbreviated title of the Cluster of Excellence>* must be a member of the group of tenured full-time university professors eligible for Senate membership at *<abbreviated name of the applicant university/universities>*.
- (3) The tasks of the Spokesperson include in particular:
1. responsibility for the appropriate distribution of funds and for adherence to the overall budget
 2. convening and chairing meetings of the Steering Committee and Cluster Council

¹² Other possible members of the Steering Committee include: additional statutory bodies, cf. § 4 (e.g. those responsible for research units and organisational units), those representing the interests of researchers in early career phases, representatives of other participating universities and non-university institutions involved in the EXC. Members may also be appointed to sit on the Steering Committee in an advisory capacity.

3. reporting on decisions to the Steering Committee¹³
4. providing information for participants and staff

- (4) The term of office of the Spokesperson is to be *<number>* years. Re-election is *<possible once / possible several times / not possible>*.
- (5) If the Spokesperson resigns prematurely or is no longer able to hold office, the Steering Committee is to convene a Cluster Council meeting to elect a new Spokesperson. Until the election, the Spokesperson is to continue to hold office on an interim basis. If this is not possible, another member of the Steering Committee is to take over on an interim basis.

§ 11 Head Office

- (1) The Head Office of *<abbreviated title of the Cluster of Excellence>* supports the ongoing work of the statutory bodies of *<abbreviated title of the Cluster of Excellence>*. Specifically, it is responsible for the following:

<options:

1. organisational handling of the tasks of *<abbreviated title of the Cluster of Excellence>*
 2. support for the Spokesperson, Steering Committee and Academic Advisory Board
 3. preparation of meetings, conventions, conferences, workshops, etc.
 4. human resources and finance
- (2) The Head Office is managed by a Head Office Manager. Delegation of tasks to the management of the Head Office is to be carried out by the employing institution at the proposal of the *<Spokesperson or statutory body>*.

§ 12 Academic Advisory Board

- (1) An Academic Advisory Board is established ¹⁴ to provide external support for *<abbreviated title of the Cluster of Excellence>*.

¹³ It is possible to define a procedure that is to be followed in urgent cases.

¹⁴ Members of the Academic Advisory Board should be personalities from Germany and abroad who enjoy international recognition in the research field of the EXC.

- (2) The Academic Advisory Board has the following tasks in particular:
1. prepare recommendations and statements on the research/structural development of *<abbreviated title of the Cluster of Excellence>*.
 2. make recommendations on important (personnel) decisions for *<abbreviated title of the Cluster of Excellence>*.
 3. *<further options>*:
 4. participate in internal evaluations of *<abbreviated title of the Cluster of Excellence>*.
 5. advise on major investments
- (3) The Academic Advisory Board of *<abbreviated title of the Cluster of Excellence>* is appointed by the *<head>* of *<abbreviated title of the applicant university/universities>* based on proposals put forward by *<the Steering Committee/Cluster Council>*.
- (4) The members of the Academic Advisory Board are appointed for the duration of one funding period. Re-appointment is *<possible once/possible several times/not possible>*.
- (5) Members of the Academic Advisory Board may terminate their participation by submitting their written resignation to the Spokesperson. Early dismissal can be carried out by the *<head>* of *<abbreviated title of the applicant university/universities>* based on proposals put forward by *<the Steering Committee/Cluster Council>*.
- (6) The Academic Advisory Board elects a chairperson from among its members. Meetings of the Academic Advisory Board are to take place *<number>* times per year. The Academic Advisory Board may adopt its own Rules of Procedure *<which require the approval of the Steering Committee/Cluster Council>*.

§ 13 Decisions, elections, minutes

- (1) The statutory bodies of *<abbreviated title of the Cluster of Excellence>* are competent to make decisions if, after being duly summoned, a *<quorum [e.g. half]>* of all participants entitled to vote are present. In the Cluster Council, all participating persons pursuant to § 5 para. 2 are entitled to vote. In the other statutory bodies of *<abbreviated title of the Cluster of Excellence>*, all members of the respective body are entitled to vote unless otherwise stipulated in these Bylaws. The transfer of voting rights is *<possible/not possible>*. If no decision-making capacity can be achieved by an invitation to attend a meeting, a decision-making capacity exists at the next meeting to be convened, irrespective of the number of persons present, providing this is specifically referred to in the invitation.

- (2) Unless otherwise stipulated in these Bylaws, resolutions are adopted by the statutory bodies of *<abbreviated title of the Cluster of Excellence>* with *<a majority of the votes cast in favour or against. Abstentions are to be considered as votes not cast. In the event of a tie, a proposal is to be rejected>*. *<In the case of resolutions of <abbreviated title of the Cluster of Excellence> on research matters, university lecturers must have the majority of votes. A weighting of votes is possible.>* At the request of *<number>* participants, the vote must be cast by secret ballot¹⁵.
- (3) Where there are objective reasons for doing so, resolutions may also be passed without participants being present at a meeting venue.
- (4) The participants of the Steering Committee may agree in the Rules of Procedure that decisions may be taken by circular resolution.
- (5) Minutes of the meetings of the statutory bodies of *<abbreviated title of the Cluster of Excellence>* are to be made available to all members of the respective statutory body no later than with the invitation to the next meeting.

§ 14 Appointments¹⁶

- (1) *<In the case of professorships funded under the Cluster of Excellence, provisions are to be drawn up governing the involvement of the Cluster of Excellence in the appointment procedure. For example, it could be stipulated that the Cluster of Excellence provides a defined proportion of the voting members of the group of university lecturers on the appointments committee, that the appointment proposal is made in agreement with/in consultation with/with the participation of the Cluster of Excellence, that the appointments list to the respective university head is to be accompanied by a statement issued by the Steering Committee. It is also possible to stipulate provisions regarding involvement in appointment negotiations. The Academic Advisory Board might be heard in connection with proposed appointments and put forward its own recommendations. Similar provisions should be established for appointments to the head of independent junior research groups funded under the Cluster of Excellence. >*

¹⁵ It is conceivable for the Spokesperson, Deputy Spokesperson and Steering Committee to cast their votes by secret ballot.

¹⁶ All provisions set down here are to comply with the respective applicable provisions of higher education law on appointment procedures.

(2) *<If possible, the Cluster of Excellence should also be involved in the appointment procedure for professorships that are not funded under the Cluster of Excellence but are highly relevant to it in terms of subject matter or structure. For example, it can be stipulated that the Steering Committee of the Cluster of Excellence should submit statements to the chairperson of the appointment committee in connection with all appointment proposals that affect the interests of the Cluster of Excellence, or that the appointments list should be decided on in agreement with/in consultation with the Cluster of Excellence.>*

§ 15 Internal distribution of funds

<Procedures for the internal allocation of funds and for the use of further resources are to be established and laid down in the Bylaws¹⁷. These include, but are not limited to, the following provisions:

1. Eligibility requirements
2. Submission form
3. Review and decision process
4. Decision-making criteria
5. Decision-making body
6. <>

§ 16 Rights to work results

Work results are the results of work generated within the Cluster of Excellence that are capable or not capable of being protected by property rights, including inventions, data, expertise etc. *<The Cluster of Excellence should establish provisions on how to deal with the work results (e.g. with regard to granting rights of use to the work results or specifications on how to handle data¹⁸). The Cluster of Excellence should also establish provisions on dealing with inventions that arise within the Cluster of Excellence (e.g. with regard to application for property rights, bearing of costs, rights of use).>*

¹⁷ It seems appropriate to have the Cluster Council adopt the general procedures for the allocation of funds but to delegate decisions in each individual case to a smaller statutory body.

¹⁸ Cf. Guideline 10 of the DFG's Guidelines for Safeguarding Good Research Practice (<https://zenodo.org/record/6472827>).

§ 17 Cooperation

<If a Cluster of Excellence is applied for by several universities, cooperation is to be regulated in a cooperation agreement. Among other things, this should contain provisions on the handling of intellectual property, mutual provision of information, confidentiality and publications. If other universities or non-university institutions are significantly involved in the Cluster of Excellence in addition to the applicant university/universities, cooperation between these institutions should be regulated in a cooperation agreement that includes the points mentioned in para. 1. If relations with application partners exist or are being established, these should also be regulated by cooperation agreements.¹⁹>

§ 18 Publications

- (1) The results of research carried out by participants in *<abbreviated title of the Cluster of Excellence>* are to be published in an appropriate form.
- (2) In each publication, reference must be made to funding under the Excellence Strategy in accordance with the DFG funding guidelines.
- (3) Joint work results are only to be published with the mutual agreement of all authors.
- (4) In all publications, care must be taken to ensure that other participants of *<abbreviated title of the Cluster of Excellence>* are not impaired in their ability to apply for property rights.

§ 19 Arbitration clause²⁰

- (1) An Arbitration Board is established as part of *<abbreviated title of the Cluster of Excellence>* to deal with complaints or the like raised by a participant or statutory body against decisions taken by a statutory body of *<abbreviated title of the Cluster of Excellence>* within the scope of its competence. The Arbitration Board is to consist of *<number>* persons who are not and have not been participants of *<abbreviated title of the Cluster of Excellence>* according to § 5. The members of the Arbitration Board are to be appointed at the proposal of *<statutory body>* by *<statutory body>* for the duration of *<number>* years.
- (2) *<Provisions may include, but are not limited to:*
 - appeal to the Arbitration Board

¹⁹ Draft wordings for cooperation with application partners are to be found in the DFG's model cooperation agreement for commercial and non-commercial cooperation partners (DFG form 41.026 and 41.026a).

²⁰ Resolution of conflict situations can also be transferred to the Steering Committee. However, it is recommended that provisions are set down for dealing with conflict situations, whatever form such provisions might take.

- Rules of Procedure of the Arbitration Board
- binding nature of the Arbitration Board's decisions>

§ 20 Final provisions and entry into force

- (1) Additions or supplements to these Bylaws must be agreed on with the DFG and require the approval of *<university statutory body>* of the *<applicant university/universities>*. They are to be brought to the attention of the heads of the institutions involved.
- (2) *<Provisions should be set down as to how a participating institution can withdraw from <abbreviated title of the Cluster of Excellence>.*
- (3) *<It should be clearly established from when the Bylaws apply. This can be a date or an event (e.g. day after publication within the university or publication of similar official notices by the applicant university/universities or a similar body)>.*