

Guidelines for safeguarding good scientific practice and procedures concerning scientific misconduct of 25 July 2000, amended by decision of the Senate on 13 December 2000

[English translation: 15 May 2006]

On the basis of Art. 28, Para 1, no. 10 of the Bavarian Law on Universities (BayHSchG) as amended on 2 October 1998 (GVBl S 740), the University of Würzburg has enacted the following

Guidelines

for safeguarding good scientific practice and procedures concerning scientific misconduct

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Part one: Guidelines for safeguarding good scientific practice

§ 1 – Principles

- (1) Scientists who work at the University of Würzburg are obliged
 - to work according to the rules of their profession,
 - to document their results,
 - to be consistently sceptical about all their results,
 - to maintain strict academic integrity with regard to contributions made by partners, competing scientists and predecessors,
 - to avoid and prevent scientific misconduct and
 - to observe the principles described below.
- (2) In addition to measures to establish proceedings on the discovery of scientific misconduct and enable actions against it, suitable measures should be taken and enforced to prevent such misconduct from arising. The university as a place where scientific and academic work is fostered and developed through research, teaching and study bears institutional responsibility.

- (3) Every head of a work group must serve as a role-model in his or her scientific work. Junior scientists and students must be equally vigilant and aware of potential misconduct in their environment in the interest of their own future careers.
- (4) The faculties are called upon to draw attention to the phenomenon of scientific misconduct in their classes and lectures in an appropriate manner and teach junior scientists and students the guidelines which apply at the University of Würzburg.

§ 2 – Cooperation and responsibilities of heads of departments and work groups

Those responsible for academic departments and groups (collaborative research centres, research training groups, graduate schools, research groups and other work groups) bear the responsibility for implementing appropriate organisational measures to ensure that the instructions to the heads of departments on supervision, settling of disputes and quality management within their departments and work groups are clear and that the members of their departments implement them.

§ 3 – Supervision of junior scientists

At the beginning of their careers, young scientists should learn not only the necessary technical skills but should also acquire and apply basic ethical tenets in their scientific work, a responsible attitude in the way they use their findings and in their work with other researchers. Students and junior scientists are entitled to regular guidance and support in their academic work from supervisors or heads of department; at the same time they themselves have an obligation to work responsibly and cooperate with their fellow researchers. Whoever is in charge of a department or work group is responsible for providing adequate guidance for undergraduates, graduate and doctoral students. For each of them there must be a primary contact who is responsible for teaching them the rules of good scientific practice at the University of Würzburg.

§ 4 – Criteria for evaluating performance

Originality and quality always take precedence over quantity in the evaluation of examinations, the awarding of academic degrees, appointment to university posts, promotions, appointments to chairs and the allocation of resources. The criteria for evaluating performance are to be based on this principle. In the case of applications for university posts whenever possible the number of publications required should be fixed in advance.

§ 5 – Documentation and retention of primary data

Primary data which serve as the basis for publications should be stored for ten years on durable and secure media in the department in which they were collected. Whenever possible, the samples on which the primary data were based should be retained for the same period of time.

§ 6 – Scientific publications

- (1) Subject to variations in the practices observed in the different scientific disciplines, the guidelines below should be followed when writing scientific publications:

1. The term “original work” may only be used for the first publication of new observations or of the results of experiments, including the conclusions drawn from them. This means that the publication of the same results in different forms, apart from preliminary reports on current research, is only acceptable if reference is made to the earlier publications.
 2. Scientific experiments must be verifiable. This means that their publication must contain an exact description of the methods and the results.
 3. Findings which support the hypothesis of the author as well as findings which call the hypothesis into question must both be published.
 4. Findings and ideas first raised by other researchers as well as relevant publications by other authors must be quoted in an appropriate manner.
 5. Scientists should refrain from fragmenting research in order to increase the number of apparently independent publications
- (2) In any case where several persons are involved in a piece of research or in writing a scientific report, the following persons should be mentioned as co-authors:
1. those who have made a significant contribution to stating the objectives, the research plan, the implementation of the research work, the evaluation or interpretation of the results as well as
 2. those who have contributed to the first draft or made substantial revision to the content of the manuscript.

A merely technical contribution to the collection of data or the providing of funding or the overall management of the department or institute in which the research was carried out is not a reason to be included as co-author. The same applies to the proof-reading of the manuscript without having contributed to the content. Furthermore,

- in the case of reports from several work groups, the contributions from each group should be clearly identified as such,
- the consent of all the authors for publication should be clearly given with the signature of each author, and the contributions of the individuals or the work groups should be clearly indicated
- notwithstanding any differing practice established in the discipline concerned, written consent must be obtained when unpublished observations made by other persons or findings made by other institutions are included in the manuscript.

- (3) Those who agree to be named as co-authors accept responsibility that the publication they have authorised to be published meets scientific standards. This is true particularly with respect to the part to which the co-author has provided a contribution. This means that the co-author is responsible not only for the accuracy of his or her own contribution to the manuscript but also ensures that this is integrated into the publication in a scientifically sound manner.
- (4) Should a scientist find himself or herself named as co-author in a publication without his or her consent and should they not be in a position to give their consent at a later date, they are expected to explicitly express their objection to being included as a co-author towards the first or last-named author (who is usually the main author) and/or to the journal concerned.

Part 2: Rules for dealing with scientific misconduct

Title 1: Scientific misconduct

§ 7 – Scientific misconduct

- (1) Within a context of scientific importance, a deliberate or grossly negligent falsification or fabrication, infringement of intellectual property rights or impairment of another person's research work in any way constitutes scientific misconduct. This includes, in particular,
 1. misrepresentation by
 - a) fabrication of data
 - b) falsification of data and sources, for example by
 - failing to acknowledge relevant sources, documents or texts,
 - being selective with and rejecting undesirable results without clearly disclosing the fact,
 - manipulating sources, representations or diagrams,
 - c) supplying incorrect details in a letter of application or an application for funding (including misrepresentation concerning the means of a publication or articles awaiting publication),
 - d) supplying incorrect details about the scientific achievements of applicants in a selection process.
 2. Infringement of intellectual property rights relating to any pieces of work protected by copyright, substantial scientific findings, hypotheses, teachings or approaches to research used or made by someone else by
 - a) unauthorised use or claiming authorship,
 - b) using approaches to research and ideas, in particular those which have not yet been published, in particular when providing references,
 - c) undue or unjustified claim to authorship or co-authorship of a scientific publication to which one has made no contribution,
 - d) falsifying the content,
 - e) unauthorised publication or providing unauthorised access to the information to third persons before the work, the results, the hypothesis, the contents of the teaching or the scientific method has been published,
 - f) using the (co-)authorship of another person without their permission
 3. compromising of research activities by
 - a) acts of sabotage against research projects conducted by others, for example, by
 - damaging, destroying or manipulating the set-up of experiments, equipment, documentation, hardware, software, chemicals or other matters required by another person to conduct an experiment,
 - maliciously displacing or removing books, archive materials, manuscripts, data files,
 - maliciously rendering data carriers such as books, documents or other data unusable,
 - b) removal of primary data, if this violates statutory regulations or recognised principles of scientific work in the subject concerned.

Title 2: Procedure in the case of suspected scientific misconduct

I. Responsible bodies

§ 8 – Persecution of scientific misconduct

- (1) The University of Würzburg will investigate every concrete suspicion of scientific misconduct in the University. For this purpose the Senate will appoint a permanent Investigation Commission to examine cases of suspected misconduct ex officio. Should the Commission establish any misconduct, the Präsidium [Note: The Präsidium is the governing body of the University and consists of the President of the University, four Vice-Presidents and the Chancellor.] will examine whether further steps are necessary to safeguard the scientific standards of the University of Würzburg as well as the rights of all those directly and indirectly involved and takes these steps within the framework of the measures available to it.
- (2) The procedure before the Investigation Commission does not preclude or prejudice any other procedures, whether statutory or regulated by internal rules (e.g. university procedures, employment law, law pertaining to civil servants, civil or criminal law proceedings). These will be initiated, if appropriate, by the authorities concerned.
- (3) The faculties concerned, in consultation with the Präsidium, will establish whether and to what extent other scientists (former and potential co-operation partners, co-authors), scientific organisations, scientific periodicals and publishers, funding institutions, professional associations, ministries and the public should or must be notified.

§ 9 – Ombudsman

- (1) The *Präsidium* will appoint a representative as well as a substitute proposed by the Senate to act as ombudsman or contact who can be approached by members of the University of Würzburg. Each of the representatives, who may be members of the non-professorial academic staff, will represent a group of scientific disciplines: (i) mathematics and natural sciences, (ii) medical sciences, and (iii) humanities and social sciences. The appointment is made for three (3) years and can be extended for one further period of three years.
- (2) The position of an ombudsman is not compatible with the office of Vice-President or Dean. The ombudsmen are subject to the regulations concerning debarment in the case of personal involvement (Art. 20 and 21, Bavarian Administrative Procedures Law)

§ 10 – Investigation Commission

- (1) The Investigation Commission consists of five (5) members. The term of office of the members of the Investigation Commission is three (3) years and this term can be renewed once. The ombudsmen attend the meetings of the Investigation Commission as observers and work in an advisory capacity.
- (2) The Investigation Commission elects one of its members as Chairperson.
- (3) The Investigation Commission has a quorum when all the members have been summoned in the proper manner and the majority of the members are present and are entitled to vote. Decisions are made with the simple majority of the votes cast at meetings, whereby a secret ballot, vote transfer and abstentions are not permitted. In case of a tie of votes, the Chairperson casts the deciding vote.

- (4) The Commission bears the name “Standing Commission for the Investigation of Scientific Misconduct”.

II. Consultation of Ombudsmen

§ 11 – When the Ombudsmen should be consulted

- (1) Should any member of the University of Würzburg see the need to discuss a suspected case of scientific misconduct or to obtain advice on the matter, they can consult the ombudsman responsible for their area of research. Anyone who is under suspicion of scientific misconduct also has this right. The ombudsman will also act on any information on scientific misconduct of which he or she obtains knowledge, whether from third parties or on his or her own initiative.
- (2) The ombudsman must examine whether and to what extent the suspicions appear plausible and could constitute misconduct and will inform those seeking advice of their rights. The information must be treated as confidential as long as the suspicions are not known outside the circle of those directly involved or further persons who have been consulted with the consent of those directly involved.
- (3) Without the consent of those seeking advice, the ombudsman may only pass on the information confided to him or her if there is a justified suspicion of such serious scientific misconduct that failure to pursue it would lead to major harm for the University of Würzburg, its members or for third parties. In this case the ombudsman informs the President of the University (with a copy to the Dean of the faculty concerned), who must then institute the necessary proceedings.

III. Investigation procedures

§ 12 – General rules for procedure

- (1) The Investigation Commission convenes in closed meetings.
- (2) The Investigation Commission has the power to undertake any steps deemed necessary to clarify the facts. In doing this, it can obtain all the necessary information and statements and if appropriate also consult the Equal Opportunities Representative of the University and experts in the subject matter under dispute. All those consulted must be advised of the confidentiality of the matter being examined.
- (3) The person concerned should be informed about the incriminating facts and the evidence.
- (4) Both the person concerned and the person who has given the information should be given the opportunity to make a personal statement.
- (5) If the identity of the person providing the information is unknown to the person concerned, he or she should be informed if this information appears necessary for a proper defence of the person concerned, particularly if the credibility of the person providing the information is essential to establish whether scientific misconduct took place.
- (6) The Investigation Commission makes its decisions having considered the circumstances found and the evidence collected.

§ 13 – Preliminary inquiry procedure

- (1) In the case of a concrete suspicion of scientific misconduct, the ombudsman concerned or a member of the Investigation Commission must be notified immediately. This should be done in writing. If it is done orally, a written note of the suspicion should be made and the evidence on which the suspicion is based should be secured.
- (2) Should the Investigation Commission learn of concrete suspicions of scientific misconduct, it institutes proceedings – even if the ombudsman has not yet been informed – and must give the person concerned the opportunity to comment on the misconduct within two weeks. The ombudsman passes on allegations of scientific misconduct to the Investigation Commission, observing confidentiality to protect the person informing and the person concerned. This should be done in writing. At this stage, the name of the person providing the information will not be revealed to the person concerned without his or her consent.
- (3) After the person concerned has given his or her statement or after the two weeks deadline has passed, the Investigation Commission decides within two weeks whether the preliminary inquiry procedure should be closed because the suspicion cannot be adequately confirmed or because a presumed misconduct has been shown to be groundless, in which case the person concerned and the person providing the information are informed of the reasons, or whether a formal inquiry should be instituted.
- (4) If the person providing the information does not agree to closing the preliminary inquiry procedure, he or she has the right to appeal to the Investigation Commission within two weeks, which then must reconsider its decision.

§ 14 – Formal Inquiry

- (1) The *Präsidium* will be informed by the Chairperson of the Investigation Commission when a formal inquiry has been instituted.
- (2) The Investigation Commission makes an ex officio inquiry into the facts. For this purpose it can obtain statements from any member of the University or those otherwise involved and summon them to give evidence. The person concerned can request to make a statement, and can call upon a person who has his or her trust to accompany him or her. This will also apply for other persons who appear before the Commission.
- (3) Should the Investigation Commission deem the misconduct to be not proven, the proceedings will be closed. Should the Investigation Commission consider the misconduct to have been proven, it presents the results of its investigation to the *Präsidium* to take action with a proposal on how to continue, particularly with respect to the protection of the rights of third parties.
- (4) The person concerned and the person who provided the information must be informed immediately in writing of the main reasons for the closing of the case or for its being presented to the *Präsidium*.
- (5) The final decisions of the Investigation Commission are not subject to any kind of appeal procedures within the University.
- (6) At the end of formal investigation proceedings the ombudsman concerned establishes all the persons who are (were) involved in the case. He or she advises them, in particular the young researchers and students who have become involved in scientific misconduct processes through no fault of their own, with regard to the safeguarding of their personal and scientific integrity.

- (7) The formal investigation documents must be kept for 30 years.

IV. Possible decisions and sanctions in the case of scientific misconduct

§ 15 – Scope in decision-making

Should scientific misconduct be formally established by the Investigation Commission, the bodies responsible may consider a number of decisions varying in form and scope. As every case is likely to be different and the gravity of the scientific misconduct in question affects the decision, there can be no uniform guideline for what sanctions are appropriate. These depend largely on the circumstances of the individual case. Without claiming to be exhaustive, this list covers possible sanctions which can be imposed:

1. Consequences relating to the employment status, in particular,
 - formal warning that a repeat of this behaviour will lead to termination of the employment,
 - termination of the employment contract, whether by mutual consent or by unilateral decision of the University;
2. Consequences relating to the position as a civil servant, in particular disciplinary measures;
3. Academic consequences, in particular
 - revocation of academic titles, in particular the Magister or Doctoral degree, if it is based on publications containing falsifications or was otherwise obtained fraudulently,
 - revocation of right to teach at the University,
 - disclosure to scientific institutions and associations outside the University,
 - demanding the withdrawal of scientific publications;
4. Consequences under civil law, in particular
 - an off-limits order to prevent the person from entering University property,
 - claims for restitution of items e.g. scientific materials removed by the person concerned
 - prohibitory injunctions and remedory claims arising from copyright law, personality rights, patent law and competition law
 - claims for reimbursement of scholarships, third-party funding etc.)
 - claims for compensation for any injury, damage or loss suffered by the University or any third parties
5. Consequences under criminal law, in particular a criminal charge or a formal complaint being made, such steps to be considered if there is a suspicion that the scientific misconduct is at the same time a violation of provisions of the German Penal Code (StGB) or otherwise an offence or misdemeanour, in particular
 - infringement of copyright,
 - falsification of documents (including falsification of technical records),
 - damage to property (including manipulation of data)
 - offences against property and assets (such as in removal of property, acquisition of funding by false pretences, or misappropriation),
 - violations of personal or professional confidentiality (such as by wiretapping or utilising other people's confidential data)
 - violation of a person's body or health (such as that of volunteer test persons as a result of false data);
6. Disclosure to third parties in need of protection and/or the public:
insofar as it appears necessary in order to protect third parties, to protect confidence in their scientific integrity, to restore their scientific reputation, to prevent further damage, or if it is

otherwise in the general public interest, third parties who are involved and/or the media must be informed in a suitable manner of the result of the investigations.

Part 3: Final Provisions

§ 16 – Entry into force

These guidelines to safeguard good scientific practice and procedures in the case of scientific misconduct enter into force on the day of their publication.

Disclaimer: The purpose of this document is to enable members of the University without sufficient knowledge of the German language to take note of the pertinent provisions they are subject to. However, this translation is not legally binding, and only the original German text is authentic and authoritative.