

# **Code of Good Practice in Research and Procedures for the Investigation of Misconduct in Research**

**dated 25 July 2000,**

**as it appears in the publication thereof, dated 23 October 2017**

(Available for download at: <http://www.uni-wuerzburg.de/aml/veroeffentlichungen/2017-68>)

*The English text in this document only serves the purpose of providing information on the contents of the corresponding German text. Only the German text shall be legally binding. Parts of the translation are courtesy of Technische Universität München (TUM).*

Article 28 Subarticle 1 No. 10 *Bayerisches Hochschulgesetz* (Bavarian Higher Education Act, BayHSchG) as it appears in the publication thereof, dated 2 October 1998 (*Bayerisches Gesetz- und Verordnungsblatt* (Bavarian Law and Ordinance Gazette, GVBl) p. 740), now Article 25 Subarticle 3 No. 1 and No. 2 *Bayerisches Hochschulgesetz* (Bavarian Higher Education Act, BayHSchG) as it appears in the publication thereof, dated 23 May 2006 (GVBl p. 245, *Bayerische Rechtssammlung* (Collection of Bavarian Laws, BayRS) 2210-1-1-K), last amended by the Act of 12 July 2017 (GVBl p. 362) forms the framework for the following

## **Code of Good Practice in Research and Procedures for the Investigation of Misconduct in Research**

decreed by Julius-Maximilians Universität Würzburg.

### **Contents**

Section 1	Principles of Good Practice in Research
Section 2	Collaboration and Management Within Research Units
Section 3	Supervision and Mentoring of Junior Researchers
Section 4	Performance and Assessment Criteria
Section 5	Storage and Retention of Primary Data
Section 6	Academic Publications
Section 7	Misconduct in Research
Section 8	Investigation of Alleged or Suspected Misconduct in Research
Section 9	Ombudspersons
Section 10	Investigation Committee
Section 11	Contacting the Ombudspersons
Section 12	General Provisions
Section 13	Preliminary Investigation
Section 14	Formal Investigation
Section 15	Potential Decisions
Section 16	Coming into Effect

## **Part 1: Code of Good Practice in Research**

### **Section 1 Principles of Good Practice in Research**

(1) All individuals involved in research at Julius-Maximilians-Universität Würzburg shall be obliged to

- perform their work according to professional standards (lege artis),
- document their results,
- question the results of their work,
- observe strict honesty regarding the contributions of partners, competing researchers, and predecessors,
- avoid and prevent misconduct in research,
- and to observe the standards of good practice in research described below.

(2) In addition to measures for detecting and punishing misconduct in research, measures should be introduced and/or enforced to prevent misconduct in research. As an institution designed to foster and develop the arts and sciences through research, teaching, and study, the University is responsible for ensuring such measures are in place.

(3) All research group leaders must serve as role models, undertaking their research in compliance with this Code of Good Practice in Research. In the interest of their own professional development, junior researchers and students must be vigilant with regard to any misconduct in their academic environment.

(4) The Faculties are called upon to discuss issues relating to good practice and misconduct in research with students and make sure that junior researchers and students are aware of the policies and procedures that are in place at the University of Würzburg.

### **Section 2 Collaboration and Management Within Research Units**

The heads of academic units (collaborative research centres, research centres, research training groups, research units, and other research groups) shall be responsible for ensuring that suitable and appropriate organisational measures are in place, that the responsibilities of management, supervision, conflict resolution, and quality assurance within the academic unit are clearly defined, and that its members fulfil these responsibilities.

### **Section 3 Supervision and Mentoring of Junior Researchers**

From the very beginning, students and junior researchers should acquire, and supervisors should convey, not only technical skills, but also ethical standards in research, in the responsible application of research results, and in collaborative work with other researchers. Students and junior researchers shall be entitled to the continual academic mentoring and support of advisors and heads of academic units; in turn, they shall be obliged to perform their work responsibly and contribute to a collegial working environment. Heads of academic units shall bear the responsibility of ensuring the adequate supervision and mentoring of students, doctoral researchers, and postdocs. Each student, doctoral researcher, and postdoc shall have a primary supervisor or mentor in his/her academic unit who provides him/her with information on the standards of good practice in research that he/she is expected to comply with.

#### **Section 4 Performance and Assessment Criteria**

Originality and quality as criteria for assessing performance in examinations, the awarding of degrees, employment, promotion, recruitment, and funding shall always take precedence over quantity. All performance and assessment criteria must be based on this principle. When soliciting applications for University positions, the number of publications required should, wherever possible, be fixed in advance.

#### **Section 5 Storage and Retention of Primary Data**

Primary data that serve as a basis for publications must be securely stored on durable media for a period of ten (10) years within the research unit where they originated. Wherever possible, preparations used in developing primary data should be retained for the same period of time.

#### **Section 6 Academic Publications**

(1) Subject to other specific conventions established in the discipline concerned, the following guidelines must be observed in the publication of academic work:

1. The term 'original work' may only be used to refer to the first-time publication of new observations or experimental findings including the conclusions drawn from them. Accordingly, multiple publications of the same findings, with the exception of announcement of preliminary results prior to publication, shall only be acceptable if reference is made to the original publication.
2. Research must be verifiable. This means that the publication of research findings must contain an exact description of methods and outcomes.
3. Findings that either support or challenge the hypothesis of the author must be communicated in equal measure.
4. Findings and ideas of other researchers as well as relevant publications of other authors must be cited in an appropriate manner.
5. Investigations must not be fragmented to create the appearance of multiple publications.

(2) If multiple authors have contributed to research or in writing a research report, those persons should be named as co-authors who played a substantial role in

1. defining the problem, drawing up research plans, conducting research, evaluating, or interpreting research outcomes, and
2. drafting or critical review and revision of manuscript content.

Co-authorship shall not apply to persons who merely technically contribute to the collection of data, or who merely provide funding, or who merely serve as head of the department or institution in which the research was carried out. Likewise persons who merely read the manuscript without contributing to its content shall not be considered co-authors. In addition, the following requirements shall apply:

- in the case of reports drawn up by several research groups, the contributions of individual groups should be identified as clearly as possible,

- the release of a manuscript for publication should be confirmed by all co-authors by their signature, and the contributions of individuals or research groups should be documented,
- written consent must be obtained if the manuscript contains explicit reference to unpublished findings of other persons or institutions, notwithstanding other specific conventions established in the discipline.

(3) Acknowledgement of co-authorship shall imply shared responsibility for compliance of the publication with academic standards, in particular to those sections of the manuscript contributed by a co-author. Co-authors shall thus be responsible for the accuracy of their own contributions as well as for the compliance of the publication as a whole with academic standards.

(4) If researchers are named as (co-)authors of a publication without their consent and do not wish to give their consent at a later date, they shall be expected to expressly voice their objections to the first or last named author (who is, as a rule, the main author) and/or the journal.

## **Part 2: Procedures for the Investigation of Misconduct in Research**

### **Title 1: Misconduct in Research**

#### **Section 7**

#### **Misconduct in Research**

(1) Misconduct in research shall be deemed to have occurred when a researcher, deliberately or through gross negligence, makes false statements, infringes upon intellectual property rights or the research activities of others in any way, including, but not limited to:

1. False statements including
  - a) fabrication of data,
  - b) falsification of data and sources, such as
    - failure to acknowledge relevant sources, references, or literature,
    - selective use or ignoring of undesired outcomes without disclosure,
    - manipulation of sources, representations, illustrations, diagrams, etc.,
  - c) false statements in letters of application or funding applications (such as incorrect information provided on the publisher or pending publications),
  - d) false statements about the scientific or scholarly achievements of applicants to a selection committee;
2. Infringement of intellectual property rights with regard to the copyrighted work or significant research findings, hypotheses, teaching or research methods of others through
  - a) unauthorised use or claims of authorship (plagiarism),
  - b) exploitation, particularly of unpublished research methods and ideas, especially in the role of reviewer, referee, expert, assessor, etc. (intellectual theft),
  - c) claiming or wrongfully accepting academic authorship or co-authorship,
  - d) falsification of content,
  - e) unauthorised publication or making available to third parties of works, findings, hypotheses, educational contents, or research methods not yet published,
  - f) claiming another person's (co-)authorship without consent;
3. Compromising the research activities of others by

- a) sabotaging the research of others, for example, by
  - damaging, destroying, or manipulating experiment designs, equipment, documents, hardware, software, chemicals, or other materials required by others to carry out an experiment,
  - malicious misplacing or stealing of books, archived materials, manuscripts, datasets,
  - wilfully tampering with media, such as books, documents, or other data of scientific or scholarly relevance in order to render them useless,
- b) removing primary data, to the extent that this violates statutory regulations or the standard principles of research practice recognised by a particular discipline.

(2) Misconduct in research shall also be deemed to have occurred when conduct gives rise to the person's partial responsibility for the research misconduct of others, in particular through

1. active involvement in other persons' misconduct,
2. awareness of other persons' falsifications,
3. co-authorship of falsified publications, or
4. gross negligence of supervisory obligations.

## **Title 2: Procedures for the Investigation of Alleged or Suspected Misconduct in Research**

### **I. Responsibilities**

#### **Section 8**

#### **Investigation of Alleged or Suspected Misconduct in Research**

(1) The University of Würzburg shall investigate every reasonable suspicion of misconduct in research at the University. For this purpose, the Senate shall appoint a standing investigation committee to conduct official investigations into alleged or suspected misconduct. Should the investigation committee come to the conclusion that misconduct in research has occurred, the University Board shall make a decision as to whether actions need to be taken to ensure compliance with the University's standards for good practice in research and protect the rights of all parties affected, either directly or indirectly, and shall initiate appropriate proceedings within the framework of the possibilities available to it.

(2) The procedure before the investigation committee shall not replace or prejudice any other legal or statutory proceedings (e. g. academic procedures, legal proceedings relating to employment or civil service, civil or criminal proceedings). These shall be instituted by the competent bodies wherever appropriate.

(3) The Faculties concerned shall, in consultation with the University Board, make a decision as to whether and to what extent other researchers (former and potential future collaboration partners, co-authors), research institutions, journals and publishers (if the accused has published research to which the misconduct relates), funding bodies and research organisations, professional associations, ministries, and the general public should or must be notified of the misconduct.

#### **Section 9**

#### **Ombudspersons**

(1) At the Senate's proposal, the University Board shall appoint, from among the University's professorial and non-professorial academic staff, an ombudsperson and a deputy from each of the following disciplines (i) mathematics and the natural sciences, (ii) the medical sciences

as well as (iii) the humanities and social sciences. These shall be appointed for a three (3) year term and can be re-appointed once.

(2) Vice-Presidents and Deans must not serve as ombudspersons. The regulations of *Bayerisches Verwaltungsverfahrensgesetz* (Bavarian Act on Administrative Proceedings, BayVwVfG) concerning the exclusion of individuals due to personal involvement (Articles 20 and 21 BayVwVfG) shall apply to ombudspersons.

### **Section 10 Investigation Committee**

(1) The investigation committee shall have six (6) members. The members of the investigation committee shall be appointed for a three (3) year term and can be re-appointed once. The ombudspersons shall attend investigation committee meetings as observers and shall serve in an advisory capacity to the committee.

(2) The members of the investigation committee shall elect a chairperson from their midst.

(3) For the committee to be a quorum, all members must have been duly notified of the meeting and a majority of members entitled to vote must be present. In committee meetings, resolutions shall be passed by the majority of votes cast; abstention from voting, secret ballots, and proxy votes shall not be permitted. In the event of a tied vote, the chairperson shall have the casting vote.

(4) The committee shall be called the 'Standing Commission for the Investigation of Scientific Misconduct'.

## **II. Contacting the Ombudspersons**

### **Section 11 Contacting the Ombudspersons**

(1) Members of the University of Würzburg who suspect that misconduct in research has occurred can report their concerns to, or seek advice from, the ombudsperson that is responsible for the discipline concerned. Individuals against whom allegations of misconduct in research have been made shall be entitled to request assistance from the ombudsperson that is responsible for their discipline. In addition, ombudspersons shall, on their own initiative, follow up any suspicions of misconduct in research that come to their attention or are brought to their attention by third parties.

(2) Ombudspersons must investigate if and to what extent the allegations are convincing enough to be considered misconduct in research and must inform individuals that seek their advice of their rights. The ombudspersons shall be bound to secrecy unless persons other than those directly affected are already aware of the suspected misconduct or additional persons have been involved with the affected person's consent.

(3) Without the consent of the individuals seeking advice, the ombudspersons must not disclose the provided information unless the substantiated suspicion relates to such severe misconduct in research, which if not investigated would lead to major damage for the University of Würzburg, its members, or third parties. In such cases, the ombudsperson shall inform the President - and the Dean of the Faculty concerned - who shall institute the procedure for the investigation of alleged or suspected misconduct.

## **III. Investigation Procedure**

### **Section 12 General Provisions**

(1) The investigation committee shall deliberate in closed session.

(2) The investigation committee shall have the right to take all steps necessary or expedient to establish the facts and circumstances of the case. For this purpose, the committee may obtain all necessary information, opinions, and representations and, in each individual case, call upon the University's Women's Representative and/or experts of the discipline in question, advising all parties involved of the obligation to keep the matter under investigation confidential.

(3) The accused shall be presented with all the facts and evidence supporting the allegations of misconduct in research.

(4) Both the accused and the informant shall have the right to be heard orally.

(5) Where the identity of the informant is not known to the accused, the informant's identity must be disclosed if this seems necessary for the accused to defend himself/herself appropriately, in particular where the informant's credibility is of major importance for the determination of research misconduct.

(6) Based on the facts and circumstances investigated and the evidence gathered in the individual case, each member of the committee shall reach a decision at his/her discretion and conviction.

### **Section 13 Preliminary Investigation**

(1) Any and all reasonable suspicions of misconduct in research must be reported to the competent ombudsperson or to a member of the investigation committee without delay. Said suspicions should be reported in writing; if suspicions are reported orally, a written report must be prepared, identifying the nature of the suspected misconduct as well as the evidence related to the allegation.

(2) Whenever reasonable suspicions of misconduct in research come to the attention of the investigation committee - whether or not these have been reported to the ombudspersons - the committee shall institute a preliminary investigation and must give the accused the opportunity to respond to the allegations within a period of two (2) weeks. The ombudspersons shall refer allegations of misconduct in research made to them to the investigation committee, maintaining appropriate confidentiality to protect both the informant and the accused; Subsection 1 Sentence 2 Half-Sentence 1 shall apply mutatis mutandis. At this stage, the informant's identity shall not be disclosed to the accused without his/her consent.

(3) Within a period of usually two (2) weeks after the accused has responded to the allegations or, respectively, after the period for response has expired, the investigation committee should make a decision as to whether the allegations should be dismissed because it has come to the conclusion that no misconduct has occurred or that the allegations do not have sufficient substance to justify formal investigation - in which case the reasons for the committee's decision shall be communicated both to the accused and to the informant - or whether the allegations should be taken through to a formal investigation.

(4) If the outcome of the preliminary investigation is that the allegations should be dismissed, the informant shall, if he/she does not agree with the dismissal, have the right to be heard by the investigation committee within a period of two (2) weeks; in such a case the committee shall re-examine its decision.

### **Section 14 Formal Investigation**

(1) The chairperson of the investigation committee shall notify the University Board when a formal investigation has been instituted.

(2) The investigation committee shall conduct an official investigation of the allegations. For this purpose, the committee may obtain statements from any member of the University of Würzburg as well as other parties involved in the matter and may summon said individuals to give oral evidence. Upon his/her request, the accused shall be heard orally; he/she shall have the right to have a support person present during this hearing. Any and all other persons that are heard orally shall also have the right to have a support person present during hearings.

(3) Where the investigation committee believes that the allegations of misconduct in research remained unproven, the allegations shall be dismissed. Where the investigation committee believes that the allegations have been proven, it shall forward the findings of its investigation to the University Board, along with a recommendation on how to proceed including, but not limited to, a recommendation on the protection of third party rights, for decision and further action.

(4) The main reasons for the committee's decision to dismiss the allegations or refer the case to the University Board shall be forthwith notified to both the accused and the informant in writing.

(5) There shall be no right of internal appeal against the decision taken by the investigation committee.

(6) When the formal investigation has been completed, the competent ombudsperson shall identify all individuals that are, or were, involved in the case. He/she shall provide individuals, in particular junior researchers and students, who became involved in research misconduct cases through no fault of their own with advice on how to protect or restore their personal and professional reputation.

(7) The files on the formal investigation must be retained for a period of thirty (30) years.

#### **IV. Examples of Potential Decisions and Sanctions Relating to Misconduct in Research**

##### **Section 15 Potential Decisions**

Where the investigation committee has formally determined misconduct in research, the competent bodies may consider a range of decisions, varying in type and scope. As each case is unique and the degree of misconduct in question of significance for the decision, there can be no uniform guideline for the repercussions, which will be determined by the particulars of each case. Depending on the individual factors of each case, the following measures, including but not limited to the following, may be taken:

1. Actions under employment law, in particular,
  - official warning
  - termination of employment with immediate effect
  - termination of employment with period of notification
  - termination of contract;
2. Actions under the German Civil Service Law, in particular,
  - disciplinary measures;
3. Actions within the academic community, in particular,
  - revocation of academic degrees, including, but not limited to, *Magister* and doctoral degrees, that were awarded for falsified research or obtained through other fraudulent means
  - revocation of the *venia legendi*
  - notification of misconduct to other academic institutions and associations
  - request for withdrawal of academic publications;
4. Actions under civil law, in particular
  - barring from premises
  - request the affected person to surrender any unlawfully obtained scientific or scholarly material
  - request for abatement or removal and/or request to cease and desist under German copyright law, rights of personality, patent law, and law of competition
  - request for restitution of, for example, grants, third-party funds, etc.
  - claims for damages asserted by the University or third parties in the event of personal injury, damage to property, etc.;
5. Actions under criminal law, in particular, bringing charges or requesting prosecution in the event of suspicion that an incident of misconduct in research may constitute an offence under the German Criminal Code (*Strafgesetzbuch*, StGB) or other punishable offence or misdemeanour, in particular,

- copyright infringement
  - forgery of documents (including forgery of technical reports)
  - property damage (including the manipulation of data)
  - property crime (including theft, misappropriation of funds, obtaining grant money under false pretences)
  - infringement of private sphere or confidentiality by, for example, data phishing or using confidential data of others
  - personal injury, disease, or death of, for example, human subjects in experiments as a consequence of false data;
6. Notification of misconduct to vulnerable groups and/or the general public  
Third parties concerned and/or the general public must be informed of the investigation result in appropriate manner if this seems expedient to protect third parties, maintain trust in academic honesty, restore their academic reputation, avoid consequential damage or otherwise benefit public interest.

### **Part 3: Final Provisions**

#### **Section 16 Coming into Effect**

The present Code of Good Practice in Research and Procedures for the Investigation of Misconduct in Research shall come into effect one day after its publication.