

Rules on the Principles for Safeguarding Good Scientific Practice at Heinrich Heine University Düsseldorf Dated 19 February 2014

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Rules on the Principles for Safeguarding Good Scientific Practice

at Heinrich Heine University Düsseldorf

Dated 19 February 2014

Pursuant to § 2 Paragraph 4 of the Law on the Universities in the Federal State of North Rhine-Westphalia (NRW University Act) of 31 October 2006 (NRW Gazette of Laws and Ordinances 2006, P. 474), last amended by law on 28 May 2013 (NRW Gazette of Laws and Ordinances 2006, P. 272), Heinrich Heine University Düsseldorf has enacted the following rules:

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FOREWORD

Scientific work is based on fundamental principles which are the same in all disciplines. The first principle amongst these is honesty towards oneself and others. The basic prerequisite for scientific work is the fairness of all researchers. It is here that the University, as a place of research, teaching and support of young scientists, has an institutional responsibility. In the light of these considerations, Heinrich Heine University is pursuing the safeguarding of scientific quality standards, in particular integrity and accuracy in research, as a core responsibility of its members and affiliates.

On the basis of these considerations and the recommendations of the German Research Foundation in the version of 3 July 2013, the “Rules of Procedure of the German Research Foundation for Dealing with Scientific Misconduct” in the version of 5 July 2011, the position paper of the German Rectors’ Conference of 6 July 1998, the recommendation of the presidium of the German Rectors’ Conference to universities entitled to confer doctorates of 23 April 2012, the recommendation of the 14th General Assembly of the German Rectors’ Conference on good scientific practice at German higher education institutions of 14 May 2013, the joint position paper of the General Faculty Association, the Faculty Associations and the German Association of University Professors and Lecturers on good scientific practice for the writing of scientific dissertations of 9 July 2012, the joint position paper of the General Faculty Association, the Faculty Associations and the German Association of University Professors and Lecturers on the structuring of doctoral examination procedures of 21 May 2013 as well as the regulations and rules of procedure for safeguarding good scientific practice of the Max Planck Society of November 2000, the Senate of Heinrich Heine University passed a resolution on 28 January 2014 on the following revised version of the rule on the “Principles for Safeguarding Good Scientific Practice at Heinrich Heine University Düsseldorf”, pursuant to §§ 2 Paragraph 4, 22 Paragraph 1 Sentence 1 No. 3 of the Law on the Universities in the Federal State of North Rhine-Westphalia (NRW University Act) of 31 October 2006 (NRW Gazette of Laws and Ordinances 2006, P. 474), last amended by law on 28 May 2013 (NRW Gazette of Laws and Ordinances 2006, P. 272):

SECTION I: GOOD SCIENTIFIC PRACTICE

§ 1 General

(1) Science is that undertaking which is to be regarded in its form and content as a serious and systematic attempt to attain truth and knowledge. Only when there is an honest handling of data, facts and intellectual property does science become science. Honesty in the search for true facts and the sharing of scientific knowledge form the foundation of scientific work. Those researchers who observe and respect the rules of good scientific practice. Those researchers who observe and respect the rules of good scientific practice are entitled to participate in the scientific discourse.

(2) Each incidence of scientific misconduct harms both the self-conception as well as the credibility of science. Accordingly, scientific misconduct damages not just the standing of the dishonest person, but also in particular the reputation of the University and of science in general.

(3) The principles of scientific work are the same in all scientific disciplines. Paramount is honesty towards oneself and others. The premise for attainment of the truth in research demands above all continuous readiness to question results, accurate documentation of data and sources as well as maximum transparency in the methods used to collect the data.

(4) On the basis of these principles, the following is required of good scientific practice:

1. Researchers must endeavour to carry out their studies *lege artis*, to the best of their knowledge and belief and in accordance with the current state of scientific knowledge and to question all results with regard to their plausibility. Strict honesty must be preserved with regard to contributions made by partners, superiors, co-workers, colleagues, competitors and predecessors.
2. All studies and research work must be carried out *lege artis* and in accordance with the current state of scientific knowledge and take into consideration current literature as well as methods appropriate and specific to the discipline. All sources consulted must be mentioned.
3. The methods applied, findings and results as well as other primary data must always be appropriately documented and archived for the duration of at least ten years. Accurate and traceable recording and documentation of the scientific approach and results applies particularly for experimental work where the repeatability of trials and experiments is a core feature.
4. Scientific results are commonly announced to the scientific community in the form of publications. Scientific publications, just as scientific observations or the actual scientific experiment itself, are thus also the product of researchers' work.
5. Researchers must comply with those principles of scientific work which are discipline-related and specific to a particular field.

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§ 2 Prevention and avoidance of scientific misconduct

- (1) With regard to safeguarding good scientific practice, suitable measures must be taken which prevent scientific misconduct from occurring.
- (2) The faculties are asked to review and, if necessary, adapt on the basis of the following rules the study, examination, doctoral and habilitation regulations applicable in their departments with regard to their compliance with scientific quality standards and avoidance of scientific misconduct. Rules regarding attempts at deception and other violations of the proper conducting of examinations must be formulated in a precise and transparent manner, as must rules on the legal consequences of such attempts at deception and violations.

§ 3 Early stage researchers, scientific personnel and technical staff working close to research

- (1) One of the ways in which Heinrich Heine University assumes responsibility for its graduates is by teaching students the principles of scientific work and good scientific practice from the commencement of their studies onwards and encouraging them to display honesty and responsibility in their scientific endeavours. In this way, students are also sensitized towards the possibility of scientific misconduct.
- (2) Heinrich Heine University assumes responsibility for its young researchers as well as its scientific personnel and those technical staff working close to research by undertaking a continuous discourse with this circle on the principles of scientific work and good scientific practice.

§ 4 Principles for writing scientific and academic theses

- (1) Originality and independence are fundamentally the most important quality criteria for any scientific work. The stringency of these criteria generally increases at progressively higher levels of academic sophistication. The quality of a scientific dissertation is also measured by the ability of an author to give the trains of thought and contents from the exploratory scientific work of others an own linguistic expression against the background of his or her own knowledge. Only through this process, which is verified by quotations and references, does an author make the thoughts and results of others his or her own in a scientifically legitimate manner.
- (2) All scientific and academic theses require correct and careful research, quotations and references. Dependence on third-party publications, be it by adopting third-party texts or adopting third-party thoughts and ideas, must be unequivocally recognizable for the reader. Which elements of intellectual property have been taken from other or third-party publications must be consistently clear to the reader. Traditional general knowledge which has been handed down in a specific discipline may be paraphrased

without needing to be verified by quotations or references. What can be considered as traditional general knowledge must be judged from the perspective of the discipline in question.

(3) All external factors which from the standpoint of an objective third party could nourish doubt about the completely autonomous scientific judgement of the author should be disclosed. Support given to a dissertation in the form of scholarships, third-party funding or other economic advantage should be clearly indicated.

(4) On the basis of these principles, the following is required of scientific dissertations:

1. The work, ideas and thoughts of others must be respected through appropriate forms of text compilation or through quotations.
2. The verbatim reproduction of a third-party text must be indicated with quotation marks. This is a typical use of third-party thoughts and ideas.
3. In so far as there is no verbatim reproduction of a text from another source but rather the text is more or less clearly paraphrased or summarized, this must be indicated.
4. Caution must be taken in the case of paraphrases or summaries that no opinions are attributed to other authors or sources who have not expressed them.
5. A scholar's own translations of foreign-language texts must be indicated as such and state the original source. A non-literal translation or linguistic revision in the target language must be identified as such. Existing translations must be named if they have been the basis or source of one's own translation.
6. Use of one's own already published texts is not as such a violation of the rules of good scientific practice. Use of exploratory work and results must however be verified and identified in a suitable manner. Examination regulations may however exclude such double use if the aim is to honour the first-time development of a new idea in examination work or dissertations (e.g. inaugural dissertation).

§ 5 Principles for quality assurance in doctoral examination procedures

(1) Doctoral Studies are evidence of the ability for deeper and independent scientific work. They embody autonomous research work. Doctoral Researchers are early stage scientists who make an important and innovative contribution to the progress of scientific knowledge and the sustainability of the scientific system with the scientific achievements produced in their dissertations.

(2) Conditions for admission to Doctoral Research must be formulated clearly. In the interest of Doctoral Researchers' legal certainty, candidates should apply for acceptance as a Doctoral Researcher in the faculty prior to commencing scientific work on their dissertation. The applicant should receive written confirmation of acceptance as well as written instructions on the rules of good scientific practice, the receipt of which he or she should confirm in writing to the faculty. These instructions may be replaced by a certificate of attendance in a course on good scientific practice.

(3) All Doctoral Researchers should be provided with a suitable environment in which

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they can successfully undertake their research. By accepting Doctoral Researchers there is an obligation for their scientific supervision. Conclusion of an “Agreement on Doctoral Supervision” is to be recommended, in which the supervision concept is documented as well as what is fundamentally required of both Supervisors and Doctoral Researchers. It might also be recommendable to include further experienced researchers as supervisors in addition to the primary contact person.

(4) Supervisors as well as Doctoral Researchers should ensure that work on the dissertation can be completed within a reasonable period of time. Responsibility for this already begins with the identification or definition of the topic, continues in the framework of regular status and supervision reviews and also includes the necessity for swift doctoral examination procedures. In the performance of this fundamental task, supervisors must act responsibly and plan sufficient time for adequate supervision.

(5) The faculty is responsible for assessing the quality of the doctoral dissertation; details are governed by the respective Doctoral Regulations. Reviewers must be selected on the basis of their expertise. They undertake their assessments independently of each other and justify their grading in a comprehensible manner. It is recommended that a disputation take place as an oral form of examination. The dissertation should additionally be submitted in electronic form. This makes it easier for all university teaching staff in the faculty to view the work and the appraisals and to give their own opinions and makes it possible to use software to check the work for violations of scientific quality standards.

(6) In the Doctoral Regulations applicable at Heinrich Heine University, submission of an affidavit on the independence of a Doctoral Researcher’s scientific achievements is foreseen, upon which admission to Doctoral Examination Procedure is conditional. Doctoral Researchers must be advised of the significance of this affidavit and the consequences under criminal law of a false or incomplete affidavit.

(7) Rules and procedures on the invalidity of doctoral achievements as well as the revocation of the doctoral grade must be defined in a precise and transparent manner in the Doctoral Regulations of Heinrich Heine University.

§ 6 Principles for quality assurance in habilitation procedures

Admission to habilitation studies is conditional upon post-doctoral candidates submitting a declaration in which they undertake to adhere to the rules of good scientific practice. The same condition applies for the appointment of junior professors. This admission condition must be included in the applicable habilitation rules. Otherwise § 5 applies accordingly.

§ 7 Organization of working groups

(1) In order to address certain scientific questions, it might be the case that several persons make partial contributions to theoretical work or experiments, to the evaluation of data, to scientific publications or the patent-protected commercialization of these results in the framework of a working group. The leaders of such working groups are responsible for an adequate culture of communication and organization which ensures that the duties of direction, supervision, conflict resolution and quality assurance are clearly allocated and that their effective fulfilment must be verifiable.

(2) The person in charge of a working group is responsible for making sure that students, doctoral researchers and younger post-doctoral researchers receive adequate supervision. There must be a primary contact person in the working group for each of them, who also conveys to him or her the principles for safeguarding good scientific practice.

(3) The commercial exploitation of scientific results produced through cooperation in a working group must be structured in such a way that the property rights of all working group members – even after they may have left the group – remain protected.

§ 8 Authorship of scientific publications

(1) If several persons are involved in a research paper or the compilation of a scientific report, only such persons may be named as co-authors who have made a significant contribution to formulating the topic, to the research plan, to conducting the research work and studies, to the evaluation or interpretation of the results and findings as well as to the drafting or critical development of the manuscript in terms of content. With regard to which authors are named and in which order, the particularities of the discipline in question must be taken into consideration.

(2) Merely supportive contributions or work such as:

1. Organizational responsibility for obtaining the funds for research,
2. Providing standard investigation material,
3. The training of staff in standard methods
4. Merely technical work on data collection
5. Merely technical support (provision of equipment or experimental animals)
6. Simple provision of datasets
7. Solely reading the manuscript without any substantial contribution to its content or
8. Directing an institution or working unit in which the publication originates do not constitute (co-)authorship (without reference to what is referred to as an “honorary authorship”).

(3) Release of a manuscript for publication should be confirmed by all co-authors with their signatures and the particular contribution of each person or working group documented. By agreeing to be named as co-author, joint responsibility is assumed for the

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compliance with scientific standards of the co-authorized publication. This particularly applies for that part to which a co-author has contributed. The co-author is responsible both for the accuracy of his or her own contribution as well as for ensuring that this is introduced into the publication in a scientifically legitimate manner.

(4) If unpublished observations, findings, results or hypotheses of other persons or institutions are used in a manuscript then – unless it is customary to do otherwise in the discipline in question – their written agreement must be obtained and their rights as originator indicated. If researchers are named as co-authors in a publication without their agreement and decline to issue their subsequent approval, then it is to be expected of them that they object against their inclusion in the circle of authors to the main person responsible or the publisher and/or the journal concerned.

§ 9 Storage of primary data and documentation obligations

(1) Primary data (for example, measurement results, collections, studies and surveys, cell cultures, specimens of material, archaeological finds and questionnaires) as the basis for publications must remain accessible on stable and secured media in the working group where they were produced for a minimum period of ten years, in so far as they represent an indispensable part of the records (what is referred to as “scientific relevance”) or this corresponds to the scientific standard in the discipline in question. This rule does not apply if it conflicts with any applicable legal regulations, which take precedence. The researcher concerned bears the responsibility for this and is obliged to provide evidence of proper documentation in a manner which is standard and usual in the discipline in question. In addition, each experiment, each test and each numerical calculation must be documented or recorded in such a suitable manner that if necessary an expert can repeat the experiment or the test or understand the principles of the calculation in order ideally to reach the same results.

(2) Documentation can take place in the form, for example, of laboratory journals, logbooks and work books or in a suitable digital form. They must be protected and kept safe from unauthorized access and secured and kept in such a way that fabrication or falsification is prevented as far as possible. Should a researcher move to another institution, the original data and records categorically remain at the institution where they were produced. Different rules can be stipulated in the framework of existing legislation, in particular with regard to the production of duplicates.

(3) In the framework of a research project in progress, the beneficiaries should decide in accordance with data privacy protection legal provisions whether third parties should be allowed access to the data. If several persons are involved in the research project, it is recommended that a contractual provision regarding the access to data for third parties be agreed between all persons involved in the research project.

(4) Each publication based on experiments, tests or numerical simulations must contain a section on “Materials and Methods” which summarizes these records in such a way that the work is comprehensible at another location.

SECTION II: SCIENTIFIC MISCONDUCT

§ 10 Violations of scientific quality standards, scientific misconduct

(1) Heinrich Heine University investigates every concrete suspicion of a major violation of scientific quality standards. In so doing, it safeguards the general right to the protection of personality and the fundamental rights of all parties involved in the proceedings. Should a violation of scientific standards as a result of wilful intent or gross negligence be proven which qualifies as scientific misconduct, suitable measures must be taken against the person or persons responsible in order to avert damage to science and the standing as well as the reputation of Heinrich Heine University.

(2) Scientific misconduct occurs when researchers in the area of science have made false statements either by wilful intent or through gross negligence, violated the intellectual property of others or interfered with their research work in a grave manner. The circumstances of the individual case are the determining factor.

(3) The following, in particular, are regarded as scientific misconduct:

1. Misrepresentation, namely:
 - a) Fabrication of data.
 - b) Falsification of data (for example by selective reporting and omission of unwanted results without disclosing these omissions; through manipulation of a representation or illustration).
 - c) Incorrect information in an application for employment or funding (including false statements concerning the publication organ and concerning work accepted for publication or in press).
 - d) Staking claim to an “honorary authorship”.
2. Infringement of intellectual property in relation to copyrighted work of another person or other persons (including drawings, figurative representations and similar) or to significant scientific findings, hypotheses, theories or research methods of others through:
 - a) Unauthorized use of texts or ideas of others including usurpation of authorship (plagiarism).
 - b) Use of the research approaches and ideas of others without sufficiently indicating the sources (theft of ideas).
 - c) Usurpation or unjustified acceptance of scientific authorship or co-authorship.
 - d) Falsification or modification of contents.
 - e) Unauthorized publication and unauthorized provision of access to third parties before the work, findings, hypothesis, theory or research method has been published.
3. Naming a non-author as (co-)author.
4. Claiming of authorship of texts written by other authors with their permission

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(what is known as “ghostwriting”).

5. Impairment of research work of others (including damage, destruction or manipulation of experiments, experimental arrangements, equipment, documents, hardware, software, chemical, physical or biological substances or other objects required by another party to conduct his or her scientific work).
 6. Elimination of data in so far as this violates legal provisions or the principles of good scientific practice (§ 9).
 7. Frivolous handling of the allegation of scientific misconduct itself, in particular making false allegations against one’s better knowledge.
- (4) Shared responsibility for scientific misconduct may result, for example, from:
1. Active participation in the misconduct of others.
 2. Knowledge of the falsifications of others.
 3. Co-authorship of publications containing falsifications.
 4. Gross neglect of supervisory obligations.

SECTION III: OMBUDSPERSONS AND COMMISSION OF INQUIRY

§ 11 Ombudspersons

- (1) Heinrich Heine University shall appoint a professor from each of the five faculties as ombudsperson for matters concerning good scientific practice.
- (2) The faculties shall nominate suitable persons as ombudspersons to the President. The President shall appoint the persons nominated by the faculties as ombudspersons for the duration of three years and obligates them to observe these Rules. An ombudsperson can serve several terms of office.
- (3) The names and addresses of the ombudspersons appointed shall be announced on the Internet pages of Heinrich Heine University and at training courses on this topic.
- (4) Should an ombudsperson withdraw from office prematurely, the faculty whose ombudsperson has withdrawn from office prematurely shall propose a second person as ombudsperson for the remaining period of office. Paragraphs 2 and 3 apply accordingly.

§ 12 Ombudspersons' responsibilities

- (1) The ombudspersons at Heinrich Heine University are responsible for the following:
 1. As persons in a position of trust, they shall advise those members and affiliates of Heinrich Heine University who inform them of an incidence of scientific misconduct and explain, if necessary in cooperation with other advisory bodies at Heinrich Heine University, the principles of good scientific practice.
 2. They must pursue independently any relevant indications of which they become aware directly or indirectly through third parties.
 3. They must investigate whether the allegations appear plausible with regard to their accuracy and significance as well as possible motives and shall clarify whether the allegations can be dispelled.
 4. If there is sufficient factual indication of scientific misconduct, they shall inform the bodies and committees responsible for sanctions (such as the deans' offices, faculty councils, Commission of Inquiry). If the jurisdiction of the Commission of Inquiry for the sanctioning of scientific misconduct is justified in accordance with § 14 (allegation of scientific misconduct by researchers working at Heinrich Heine University), they shall apply for a preliminary inquiry to be held in accordance with § 18 of these Rules.
 5. According to § 13 Paragraph 5 they are part of the Commission of Inquiry as non-voting members in an advisory capacity.
 6. Once an inquiry or proceedings have been completed, they shall counsel the persons concerned and inform the relevant parties in accordance with § 27 of these Rules.
 7. They are obliged to document their actions under consideration of the general right to the protection of personality of complainants and respondents.

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(2) Each member and former member as well as each affiliate and former affiliate of Heinrich Heine University has the right to speak to the ombudspersons in person within a reasonable time limit.

§ 13 Commission of Inquiry

(1) Heinrich Heine University shall engage a Commission of Inquiry to resolve incidences of scientific misconduct by researchers working at the University.

(2) A professor from each of the five faculties shall be appointed as a member of the Commission of Inquiry together with two academic employees. The professors shall be members or affiliates of Heinrich Heine University. Each faculty shall propose a professor as a member of the Commission of Inquiry to the Senate of Heinrich Heine University. The Senate representatives of the non-professorial academic staff shall propose two academic employees.

(3) The Senate shall appoint the professors as well as the two nominated academic employees as members of the Commission of Inquiry for the duration of three years and obligate them to observe these Rules. A member may serve several terms of office.

(4) Should a professor withdraw prematurely from his or her office as a member of the Commission of Inquiry, the faculty whose candidate has withdrawn from office prematurely shall propose a second person as a member of the Commission of Inquiry for the remaining period of office. Should an academic employee withdraw prematurely from his or her office as a member of the Commission of Inquiry, the Senate representatives of the non-professorial academic staff of Heinrich Heine University shall propose a suitable candidate as member for the remaining period of office to the Senate of Heinrich Heine University. Paragraphs 2 and 3 apply accordingly.

(5) The ombudspersons as laid down in § 11 are part of the Commission of Inquiry as non-voting members in an advisory capacity. They cannot be members within the meaning of Paragraph 2 at the same time.

(6) The names and addresses of the members of the Commission of Inquiry shall be announced on the Internet pages of Heinrich Heine University.

§ 14 Commission of Inquiry – Jurisdiction and responsibilities

(1) The Commission of Inquiry shall be responsible for investigating allegations of scientific misconduct towards researchers who are currently working or have previously worked at Heinrich Heine University. Proceedings before the Commission of Inquiry do not replace other proceedings ruled by law or statutory legislation. It is particularly excluded by such proceedings which are governed by the study, examination, doctoral examination and habilitation rules applicable at Heinrich Heine University.

(2) The Commission of Inquiry shall act upon application by an ombudsperson or the President. The executive committee of the Commission of Inquiry (§ 15 Paragraph 2) shall hold the preliminary inquiry and the Commission of Inquiry itself shall implement the formal inquiry proceedings. The Commission of Inquiry may discontinue proceedings related to suspicion of scientific misconduct or suggest how the misconduct it has detected should be sanctioned (§§ 23 ff.).

§ 15 Commission of Inquiry – Chairpersonship, executive committee and proceedings

(1) The Commission of Inquiry shall appoint two professors from amongst their number as chairperson and deputy chairperson. The chairperson shall invite members to meetings, chair these meetings and implement the Commission's decisions.

(2) To hold the preliminary inquiry in accordance with § 18, the members of the Commission of Inquiry with voting power shall form an executive committee which comprises the chairperson of the Commission of Inquiry as well as two further members with voting power.

(3) A quorum exists when at least four members are present at meetings of the Commission of Inquiry and all three members are present at meetings of the executive committee. Decisions shall be taken on the basis of the majority vote of the members present. If no majority vote is reached or in the event of a tie, there shall be no decision. Members who abstain from voting shall count as present; their abstention however shall count as rejection of the decision. Minutes of meetings must be kept which record the main results of the meeting.

(4) Both the Commission of Inquiry as well as the executive committee may invite to their meetings up to two further persons as members in an advisory capacity and who possess specialist knowledge in the scientific field under review or are experienced in handling similar proceedings.

(5) Time limits for statements, hearings, meetings and rulings must be set in such a way that they are reasonable and ensure that proceedings are swift.

(6) A member of the Commission of Inquiry shall not be involved in a statement, hearing, meeting or ruling either in an advisory capacity or with voting power, if this could directly advantage or disadvantage in a legal, financial or intangible manner the member himself or herself or one of his or her relatives, staff or other scientific cooperation partner (reason for exclusion); this particularly applies if the member himself or herself is affected by the proceedings. If a member is obliged to assume that there is a reason for his or her exclusion, then he or she must inform the chairperson of this reason in good time and without delay. If the reason for exclusion concerns the chairperson, he or she shall be replaced by the deputy chairperson. In case of doubt, the members shall decide with a simple majority whether there is reason to exclude a member.

SECTION IV: SUSPICION OF SCIENTIFIC MISCONDUCT

§ 16 Reporting suspicion and protection of complainants

(1) In the case of concrete suspicion of scientific misconduct, where possible it should be the ombudsperson whose faculty is concerned who is informed without delay. If a member of the Commission of Inquiry is informed about a concrete suspicion of scientific misconduct, the member must for his or her part inform without delay the ombudsperson whose faculty is concerned.

(2) The reporting of a suspicion must take place to the best of one's knowledge and belief; no allegations may be made without verification and without sufficient knowledge of the facts. A frivolous attitude to allegations of scientific misconduct, in particular making incorrect allegations against one's better knowledge, itself constitutes a form of scientific misconduct.

(3) The reporting of a suspicion should, where possible, occur in writing, naming all the facts and potential evidence. In the case of an oral report, the ombudsperson should make a written note of the suspicion and the facts and evidence which substantiate it.

(4) The ombudsperson examines whether the allegations give reason for concrete suspicion of scientific misconduct. He or she must exercise professional judgement in analysing the facts thoroughly and completely and investigate not only the incriminating but also the exonerating circumstances. Once this inquiry is completed, the ombudsperson produces a written note on the result of the inquiry.

(5) Should the inquiry by the ombudsperson reveal that the allegations made do not give reason for concrete suspicion of scientific misconduct, the ombudsperson informs the respondents and complainants accordingly. Should complainants disagree with the ombudsperson's decision, they may present their objections to the chairperson of the Commission of Inquiry in writing or orally within four weeks or six weeks in the lecture-free period.

(6) Should the allegations made reveal sufficient indication of scientific misconduct, the ombudsperson hands the report of the suspicion as well as his or her written note to the body or committee responsible. The bodies and committees responsible within the meaning of Sentence 1 are:

1. The bodies or committees of the faculties responsible according to the corresponding rules in the case of allegations concerning a violation of the study, examination, doctoral and habilitation rules applicable at Heinrich Heine University.
2. The Commission of Inquiry in the case of allegations concerning the conduct of a researcher.

(7) Confidentiality must be maintained for the protection of complainants and respondents in all proceedings and stages of proceedings as far as possible and by all parties concerned in order to safeguard their rights.

(8) Researchers who provide specific information about the suspicion of scientific misconduct (what are known as “Complainants” or “Whistleblowers”) must not sustain any disadvantage for their own scientific or professional advancement as a result. Both the ombudspersons as well as members of all other bodies and committees who investigate cases where there is suspicion of scientific misconduct must support the protection of complainants in a suitable manner.

§ 17 Statements by respondents

(1) The Commission of Inquiry gives the person affected by the suspicion of scientific misconduct (what is referred to as the “Respondent”) – without delay and naming all incriminating facts and evidence – the opportunity to respond within a time limit to be set. The time limit for the respondent’s statement is generally three weeks or six weeks in the lecture-free period.

(2) The names of the complainants may not be disclosed to the respondents at this stage of the proceedings without their express agreement.

SECTION V: COMMISSION OF INQUIRY PROCEEDINGS

§ 18 Preliminary inquiry by the executive committee of the Commission of Inquiry

(1) Following receipt of the statement by the respondents or after the time limit set for this has elapsed, the executive committee of the Commission of Inquiry established in accordance with § 15 Paragraph 2 reaches a decision, following dutiful analysis of the facts and under consideration of all circumstances which are incriminating and exonerating for the respondents and in general within six weeks or ten weeks in the lecture-free period, on whether:

1. The preliminary inquiry is to be discontinued and complainants and respondents informed of the reasons, because the suspicion of scientific misconduct has not been sufficiently confirmed or an alleged incidence of scientific misconduct has been fully resolved or the scientific misconduct is not to be seen as serious.
Or:
2. For the purpose of further clarification and ruling, the preliminary inquiry should lead into formal inquiry proceedings.

§ 20 Paragraph 4 is to be applied accordingly.

(2) If complainants do not agree with the discontinuance of the preliminary inquiry, they may present their objections to the chairperson of the Commission of Inquiry in writing or orally within four weeks or six weeks in the lecture-free period. The chairperson of the Commission of Inquiry deliberates and reaches a decision on the objections with corresponding application of Paragraph 1, if necessary after a second hearing of the respondents. Complainants and respondents must be informed of the decision.

(3) A formal appeal against the decision of the Commission of Inquiry to discontinue the preliminary inquiry is not permissible.

§ 19 Formal inquiry proceedings

(1) The chairperson of the Commission of Inquiry initiates formal inquiry proceedings by informing the respondents of the results of the preliminary inquiry. He or she informs the President that formal inquiry proceedings have been initiated.

(2) The Commission of Inquiry deliberates in a closed session. It must investigate in unbiased consideration of the evidence whether scientific misconduct has occurred. Independent statements by qualified third parties may be obtained for this purpose, if this appears necessary for objective or legal reasons.

(3) The persons concerned by an incidence of possible scientific misconduct, the working group concerned or the institution concerned must be given the opportunity to comment. Upon their request, the persons concerned must be permitted an oral hearing at which they may each have a person of their trust present. This also applies for all other persons to be heard.

(4) The names of complainants must be disclosed to the respondents upon application where no other proper defence is possible or if the credibility and the motives of the complainants are significant for clarification of the allegations. Complainants must be informed of this disclosure.

§ 20 Ruling in formal inquiry proceedings

(1) Should the Commission of Inquiry consider that there is no evidence of scientific misconduct, it discontinues the proceedings. Sentence 1 also applies if the Commission of Inquiry considers that the scientific misconduct is not substantial. The President must be informed that proceedings have been discontinued, giving the principal reasons for the decision.

(2) Should the Commission of Inquiry consider that scientific misconduct has been proven, it informs the President in writing about the result of its inquiry and suggests how the proceedings should continue, also with regard to safeguarding the rights of third parties.

(3) A formal appeal against the decisions of the Commission of Inquiry is not permissible.

(4) Records of the formal inquiry proceedings must be kept for 30 years. This also applies for associated data which due to its nature cannot be documented in writing.

§ 21 Counselling for co-respondents and complainants

(1) Following conclusion of the formal inquiry proceedings, those persons who have been involved without any fault on their part in events or proceedings for the sanctioning of scientific misconduct must be protected against discrimination with regard to their general right to the protection of personality, other fundamental rights and in particular their scientific integrity. The following can serve to protect the personal and scientific integrity of the persons concerned:

1. Counselling by the ombudsperson.
2. A written declaration by the chairperson of the Commission of Inquiry that the party affected is not to be blamed for any scientific misconduct nor to be held jointly responsible for it.

(2) Complainants must be protected against discrimination in an appropriate manner, if it does not transpire that their allegations were evidently unfounded.

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§ 22 Ruling by the President

(1) If the Commission of Inquiry has found that scientific misconduct has occurred and informed the President of this in accordance with § 20 Paragraph 2, the President examines the suggestions of the Commission of Inquiry regarding how the proceedings should continue and reaches a decision on one or several measures in accordance with §§ 24, 25, 26 Paragraph 3. The criteria here are the safeguarding of scientific standards and of the rights of all persons directly or indirectly involved, the nature and severity of the scientific misconduct established as well as the necessity to sanction it.

(2) The President advises the Commission of Inquiry in writing and within a reasonable time limit of his or her decision on how proceedings should continue.

§ 23 Revocation of academic grades

The revocation of academic grades (Bachelor grade, Master grade, Diplom grade, Magister grade, Doctor grade, Dr. habil. grade) or academic titles [Assistant Professor (Privatdozentin or Privatdozent), Adjunct Professor] may be the case if the academic grade or the academic title is the result of publications containing falsifications or was otherwise fraudulently obtained; where relevant, revocation of the licence to teach may also be the case. Details are governed by the study, examination, doctoral and habilitation regulations of the faculties.

§ 24 Consequences under labour and civil service law

(1) If the respondent is employed by the University, scientific misconduct may lead to the following consequences under labour law:

1. Warning
2. Caution
3. Instant dismissal (including dismissal on grounds of suspicion)
4. Dismissal with due notice
5. Cancellation of contract

(2) If the respondent is in an employment relationship with the University as a civil servant, scientific misconduct may lead to the following disciplinary consequences or consequences under civil service law:

1. Warning, reprimand
2. Fine, reduction in salary
3. Removal from office
4. Revocation of appointment

Disciplinary measures against retired civil servants are:

1. Reduction in pension and
2. Revocation of pension

Details are governed by § 33 Paragraph 3 Sentence 5 of the NRW University Act (HG-NRW) in conjunction with § 47 Paragraph 1 of the Civil Servant Status Act (Beamt-StG), §§ 1 ff. NRW Disciplinary Act (LDG NRW).

§ 25 Consequences under civil and public law

Scientific misconduct may lead to the following consequences under civil and public law, in particular:

1. Retraction or revocation of funding decisions as well as revocation of approved or reclamation of already expended funds.
2. Issue of a house ban.
3. Enforcement and where necessary imposition of claims for the recovery of possession against respondents, in particular with regard to stolen materials, documents or data.
4. Claims for removal and injunctive relief on the basis of copyright law, general right to the protection of personality, patent law and competition law.
5. Claims for compensation by Heinrich Heine University or third parties in the case of personal injury, damage to property or other legal assets.

§ 26 Consequences under criminal and administrative offences law

(1) Scientific misconduct may lead to the following consequences under criminal and administrative offences law, if there is sufficient factual indication (so-called “initial suspicion”) which constitutes an offence in accordance with the Criminal Code (StGB – Strafgesetzbuch), the Administrative Offences Law (OWiG – Ordnungswidrigkeitengesetz) or other laws.

(2) Criminal offences which scientific misconduct can constitute include:

1. Violation of personal privacy:
 - § 202 Criminal Code: Violation of the confidentiality of the written word
 - § 202a Criminal Code: Data espionage
 - § 204 Criminal Code: Use of third-party secrets
2. Document forgery:
 - § 267 Criminal Code: Document forgery
 - § 268 Criminal Code: Forgery of technical records
 - § 274 Criminal Code: Suppression of documents
3. Data modification:
 - § 303a Criminal Code: Data modification
4. Violation of copyright:
 - § 106 Copyright Law (UrhG – Urhebergesetz): Unauthorized use of material protected by copyright

(3) The President is duty bound to inspect to what extent there is sufficient factual indication of an actionable crime or administrative offence and whether charges should be brought and/or a criminal complaint lodged.

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§ 27 Revocation of scientific publications

If the subject of scientific misconduct is misrepresentation or the violation of intellectual property or in participation in such misconduct, the author involved must be prompted to revoke at least those parts concerned. In so far as the work concerned is as yet unpublished, the author involved must be prompted to withdraw the work in good time. The author responsible for the publications containing falsifications or his or her co-authors must report to the body or committee in charge within a reasonable time limit, in particular with regard to the revocation of the publication concerned or withdrawal of the work.

§ 28 Informing third parties and the general public

In so far as it appears necessary in order to protect third parties, to preserve trust in scientific integrity, to re-establish scientific repute or to prevent consequential damage, affected third parties, the university public and the press must be informed in an appropriate manner and under consideration of the general right to protection of personality of the respondent about the ruling and any possible measures by the committee or body responsible at Heinrich Heine University.

§ 29 Entry into force

These Rules enter into force on the day following their announcement in the Official Bulletin of Heinrich Heine University.

Issued on the basis of the resolution of the Senate of Heinrich Heine University Düsseldorf of 28 January 2014.



Düsseldorf, 19 February 2014
Professor Dr. Dr. H. Michael Piper
President

Heinrich Heine University Düsseldorf

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