

THIS TRANSLATION OF 'Ordnung zur Untersuchung wissenschaftlichen Fehlverhaltens vom 25.01.2022' PUBLISHED IN 'Amtliche Mitteilungen 9/2022' IS NOT LEGALLY BINDING

Duty of inspection and right of objection:

In accordance with Section 12 of the Higher Education Act of North Rhine-Westphalia (Hochschulgesetz – HG NRW), procedural or validity violations of higher education law, other applying regulations or other forms of autonomous university law can no longer be asserted after one year has expired since the publication of these Regulations. Exceptions can be made if

1. the Regulations were not published in the prescribed manner,
2. the Rectorate has in advance objected to the decision of the committee responsible for ratification,
3. flaws in form and procedure have been asserted against the University in advance describing the violated legal provision and fact causing the flaw, or
4. upon publication, the legal consequences of the limitation period for inspection and objection were not clarified.

PUBLISHING INFORMATION

Publisher: UNIVERSITY OF
COLOGNE THE RECTOR

Address: ALBERTUS-MAGNUS-PLATZ
50923 COLOGNE

Date of appearance: 25 JANUARY 2022

Regulations on the Investigation of Scientific Misconduct

as of 25 January 2022

Pursuant to Sections 2 (4) (1), and 4 (3) of the Higher Education Act of the State of North Rhine-Westphalia (Hochschulgesetz – HG) in the version of the Higher Education Future Development Act (Hochschulzukunftsgesetz – HZG NRW) of 16 September 2014 (GV. NRW p. 574), last amended by Article 1 of the Act on Further Amendments to the Higher Education Act and the Higher Education Act for the Arts of 25 November 2021 (GV. NRW p. 1210a), the University of Cologne enacts the following regulations:

Preamble

Pursuant to Section 4 (4) of the Higher Education Act of the State of North Rhine-Westphalia (HG), all academic staff at the University as well as students are obliged to academic honesty.

Academic honesty forms the basis of trustworthy science and scholarship. It is an expression of scientific self-commitment that includes respectful treatment of each other, study participants, animals, cultural assets, and the environment, and it strengthens and promotes society's indispensable trust in science and scholarship. The constitutionally guaranteed freedom of science and scholarship is inseparably linked to a responsibility to uphold these values. It is the primary task of every scholar and scientist and of the institutions in which science is organized to take this responsibility fully into account as a guideline for their actions. Science and scholarship themselves ensure good academic practice through honest thought and action, and not least of all through organizational and procedural regulations.

The Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) supports higher education institutions in this endeavour. To this end, it has adopted new 'Guidelines for Safeguarding Good Research Practice' in 2019. The University has implemented these principles in its 'Guidelines of the University of Cologne on Good Research Practice' of 19 January 2022.

These Regulations describe the procedure by which the University investigates scientific misconduct on its own responsibility. It is largely based on the DFG recommendations. Furthermore, it is based on the recommendations of the German Rectors' Conference (HRK) on dealing with academic misconduct at universities, which take up a specific aspect of the proposals of the the German Research Foundation. Formulations taken from the above-mentioned texts have been incorporated into these Regulations, in part indirectly and in part directly.

Part 1 Academic Misconduct

Section 1

Definition

Academic misconduct includes cases in which scientific or scholarly work is misrepresented either deliberately or through gross negligence, the intellectual property of others is infringed or their research activities are otherwise sabotaged. Academic misconduct also includes incorrect or malicious accusations against others. Misconduct may furthermore include in particular

1. false statements such as

- a) the fabrication of data,
- b) falsifying data (e.g. by selecting and rejecting undesirable results without disclosing this; by manipulating a representation or illustration),
- c) incorrect information in an application letter or grant application (including incorrect information about the publication organ and publications accepted or in print).

2. infringement of intellectual property in respect of a copyrighted work created by another person or of substantial scientific knowledge, hypotheses, teachings or research approaches originating from another person, in particular

- a) unauthorized exploitation claiming authorship (plagiarism)
- b) the exploitation of research approaches and ideas, in particular as a reviewer (theft of ideas),
- c) the presumption or unfounded assumption of scientific authorship or co-authorship,
- d) the falsification of content,
- e) the unauthorized publication and making available to third parties as long as the work, finding, hypothesis, teaching, or research approach has not yet been published,
- f) claiming the authorship or co-authorship of another/other person(s) without his/her/their consent,
- g) claiming texts written by other authors with their consent as one's own (so-called ghost-writing).

3. the sabotage of research activities, such as

- a) the serious interference with research activities (including damaging, destroying or tampering with experimental set-ups, equipment, records, hardware, software, chemicals or other items needed by another person to carry out scientific work),

b) the disposal of primary data, insofar as this violates legal provisions or the recognized principles of scientific work in a given discipline.

4. deliberately false accusations.

Reports of alleged academic misconduct must be made in good faith. Intentionally false allegations may themselves constitute academic misconduct.

Section 2

Joint responsibility for academic misconduct

Joint responsibility for academic misconduct may arise, inter alia, from

- a) participation in the misconduct of others,
- b) co-authorship or editorship of publications containing falsification,
- c) gross neglect of the duty of supervision.

Part 2

Dealing with academic misconduct

Section 3

Responsibility

The Commission for Safeguarding Good Research Practice investigates allegations of scientific misconduct and advises the Rectorate of the University of Cologne in this regard. To this end, it submits recommendations for resolution to the Rectorate.

In the case of qualification theses as well as doctoral or Habilitation procedures, the Faculties concerned always investigate academic misconduct. The Faculties are responsible for deciding on the possible revocation of academic degrees.

All procedural steps shall take place within a reasonable period of time.

Section 4

Composition of the Commission

(1) The Commission for Safeguarding Good Research Practice shall include the following voting members:

- one professor from each Faculty,
- two representatives from the group of academic staff,

- and an equal number of deputies.

(2) The Commission shall be chaired by the Vice-Rector for Research and Innovation. The voting members of the Commission shall elect a deputy chairperson for a period of two years by simple majority.

(3) All members of the Commission shall be independent in the confidential performance of their duties and shall not be bound by instructions. They shall be bound to secrecy.

(4) If a member of the Commission believes that he/she/they may appear to be partial, he/she/they shall immediately inform the chairperson. The whistleblower or the person concerned may also indicate if a member of the Commission might be partial. In such cases, the chairperson shall decide to replace the member.

Section 5

Quorum

The Commission shall constitute a quorum when at least half of the voting members are present.

Section 6

Ombudsperson, responsibility

(1) On the proposal of the Rectorate, the Senate shall appoint an ombudsperson and a deputy.

(2) The ombudsperson shall act independently on the basis of these Regulations. He/she/they shall be the contact person for anyone bringing allegations of academic misconduct against a member of the University of Cologne. This also applies if the person is no longer at the UoC, but was at the time of the alleged academic misconduct. Persons who are suspected of academic misconduct can also contact the ombudsperson. In addition, the ombudsperson also advises on questions of good academic practice and tries to contribute to the solution-oriented mediation of conflicts within the scope of his/her/their possibilities. In doing so, the ombudsperson is bound to confidentiality.

(3) A tenured professor shall be appointed as ombudsperson. The ombudsperson may not be a member of a central governing body of the University of Cologne during the exercise of this office. The appointment is made for three years with the possibility of one reappointment. The same shall apply to the appointment of the deputy who shall take the place of the ombudsperson in the event of bias or absence of the ombudsperson.

(4) The appointment of the ombudsperson and his/her/their deputy shall be announced in the official bulletins of the University.

Section 7

Whistleblowers and persons concerned

- Both whistleblowers and persons concerned by allegations must be granted adequate protection throughout the entire duration of proceedings.
- This includes, in particular, the presumption of innocence for those affected by allegations.
- Neither whistleblowers nor persons concerned by allegations may suffer disadvantages for their academic and professional advancement as a result of an investigation.
- Provided that the allegations were not made intentionally or maliciously, whistleblowers must not suffer any disadvantage even if academic misconduct cannot be proven.

Section 8

Management

The day-to-day business of the Commission is conducted by the chairperson. The GWP office supports the chairperson and the ombudsperson in carrying out their activities.

The chairperson of the Commission shall inform the Rectorate at least once a year, if necessary in anonymous form, about his/her/their activities.

Section 9

Suspected academic misconduct

The University of Cologne investigates every concrete suspicion of academic misconduct.

If the ombudsperson receives indications of academic misconduct, for example from a whistleblower, he/she/they examines the facts of the case. The ombudsperson examines the allegations from the point of view of plausibility, and also for possibilities to dispel the allegations. If he/she/they come to the conclusion that there is sufficient suspicion of scientific misconduct, he/she/they inform the Commission. The identity of the person providing the information is protected.

Section 10

Investigating academic misconduct

(1) The Commission shall investigate allegations of academic misconduct upon notification by the ombudsperson or upon request by one of its members. If the request is

made by one of its members, the Commission may first initiate the procedure according to Section 9 (2). The ombudsperson shall attend the meetings in an advisory capacity.

(2) If the Commission comes to the conclusion that there is suspicion of academic misconduct, it shall decide by simple majority to initiate an investigation procedure.

(3) The incriminating facts and, if applicable, evidence shall be provided in writing to the person concerned and the whistleblower.

(4) Both the person concerned and the whistleblower shall be given the opportunity to comment. The statement shall in principle be made in writing. Alternatively, the statement of the person or persons concerned may be made orally (hearing) at their request; for this purpose, they may each call in a person of their confidence as an advisor.

(5) The Commission shall be entitled to take all steps necessary to clarify the facts of the case. For this purpose, it may obtain all necessary information and statements and, in individual cases, also consult experts from the academic field concerned.

(6) If the identity of the whistleblower is not known to the person concerned, this shall be disclosed to him/her/them if this information appears necessary for the proper defence of the person concerned, in particular because the credibility of the whistleblower is of essential importance for the determination of alleged misconduct.

Section 11

Non-demonstrability of academic misconduct

If the Commission comes to the conclusion by a simple majority that academic misconduct has not been proven, it shall recommend to the Rectorate that the proceedings be discontinued.

Section 12

Demonstrability of academic misconduct and sanctions

If the Commission considers academic misconduct to have been proven by a simple majority, it shall also deliberate on the options for further action, in particular on possible consequences.

Since violations can involve very different individual cases, various consequences are possible. The sanctions are therefore based on the individual case. The revocation and correction of academic publications must be initiated by the university headship if the authors involved do not take action. In justified cases, the university headship may be obliged to inform funding bodies, academic organizations, professional associations, third parties concerned, and the public in order to protect third parties, to maintain confidence in academic honesty, to restore academic reputation, to prevent consequential damage, and to act in the general public interest.

The proceedings before the Commission may also result in other proceedings (e.g. consequences under labour law, civil service law, civil law and criminal law). If necessary, these will be initiated by the responsible authorities.

Section 13

Report to the Rectorate

The Commission reports the results of its investigation to the Rectorate and submits a recommendation for decision.

Section 14

Decision by the Rectorate

(1) The Rectorate shall decide on the basis of the report and recommendation of the Commission whether it will follow the Commission's recommended resolution. If the Rectorate considers academic misconduct to be proven, it shall also decide on further action.

(2) The person concerned and the informant shall be informed of the Rectorate's decision in writing. The essential reasons which led to the decision shall also be communicated.

Part 3 Concluding provisions

Section 15

Entry into force

With the entry into force of these Regulations, the Guidelines for Ensuring Good Academic Practice and for Dealing with Academic Misconduct of 19 November 2020 (Amtliche Mitteilungen 132/2020) shall cease to apply.

Issued by resolution of the Senate of the University of 19 January 2022.

Cologne, 25 January 2022

signed
The Rector
of the University of Cologne

Professor Dr Axel Freimuth