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The University of Konstanz's Statutes to ensure good research practice and on handling allegations of research misconduct

as of 25 July 2023, amended on 20 February 2024

Preamble

Academic work relies upon foundational principles that apply equally to all academic disciplines. This includes honesty towards oneself and others as well as the pursuit of new research findings. Academic integrity forms the basis for trustworthy research. It is a form of academic self-commitment that encompasses the commitment to the respectful treatment of each other, study participants, animals, cultural assets and the environment, and fosters the indispensable trust of society in research. The freedom to carry out research guaranteed under German Basic Law is inextricably linked to the researchers' corresponding responsibility. For the University of Konstanz, its members and affiliated members, it is top priority to live up to this responsibility and to establish it as a guiding principle for their actions. To this end, the University of Konstanz has adopted these statutes as well as Guidelines to ensure good research practice, which demonstrate the university's consensus on the fundamental principles and standards of good research practice and are supported by all university members and affiliated members. The statutes assist all university members and affiliated members with conducting their everyday research with integrity by establishing good research practice as a sound and binding component of research and the qualification of early career researchers.

First section: General principles

§ 1 Obligation to ensure good research practice

- (1) All academic staff members working at the University of Konstanz as well as its students are required to abide by the principle of academic integrity. To this end, they are obligated to uphold all applicable legal and contractual obligations for their research as well as the generally accepted guidelines to ensure good research practice (§ 3 para. 5 sentences 1 and 2 *Landeshochschulgesetz LHG* (state law on higher education)).
- (2) Research misconduct includes, in particular, providing false information in research-related contexts, whether intentionally or due to gross negligence, infringing the intellectual property of others or otherwise interfering with their research work. Research misconduct includes, above all, the following practices:

1. False information
 - a) inventing data;
 - b) falsifying data, e.g.
 - aa) through selecting, rejecting and omitting unwelcome results without stating this fact,
 - bb) through manipulating a chart or picture;
 - c) providing incorrect information in an application letter or an application for funding (including incorrect information about the publication organ and forthcoming publications).
 2. The active or passive hindrance of the reproducibility or verifiability of research results,
 3. Infringement of intellectual property
 - a) relating to copyrighted work created by others or to other people's essential research findings, hypotheses, teachings or research approaches, e.g.
 - aa) using content without authorization and feigning authorship (plagiarism),
 - bb) exploiting research approaches and ideas, particularly as a reviewer (intellectual theft),
 - cc) claiming or accepting authorship or co-authorship of research without reason,
 - dd) falsifying contents,
 - ee) publishing and making research available to third parties without authorization to do so while the work, research result, hypothesis, teaching or research approach remains unpublished as well as wilfully delaying a publication as its reviewer, publisher or co-author,
 - b) claiming another person's authorship or co-authorship without their consent.
 4. Interfering with the research activities of others
 - a) sabotaging research activities (including damaging, destroying or manipulating experimental set-ups, equipment, documents, hardware, software, chemicals or other components needed to carry out an experiment),
 - b) falsifying research data/documents or destroying them without authorization,
 - c) falsifying documentation of research data or destroying it without authorization.
- (3) It is also defined as research misconduct in the sense of para. 2 if a person intentionally participates in the research misconduct of another person (in the sense of inciting such action or aiding/abetting thereby).
- (4) It is also defined as research misconduct for a person supervising an academic thesis to intentionally or grossly neglect their responsibilities if the necessary and reasonable supervision they are expected to provide would have prevented or significantly inhibited the person completing the thesis from engaging in research misconduct in the sense of para. 2 and 3.

§ 2 Management and instruction of early career researchers and students; right to report suspected misconduct

- (1) Irrespective of the Rectorate's responsibilities, the departments and other research units bear the responsibility for creating suitable organizational structures to ensure that
1. the tasks of management, supervision, quality assurance and conflict management are clearly assigned and duly performed, and that
 2. early career researchers are taught the principles of good research practice.
- The responsibilities stated in sentence 1 also apply to leaders of research teams and project leaders in their area of responsibility.
- (2) Persons in leadership positions are also required to ensure the suitable individual supervision of their early career researchers and to promote the career development of their academic staff and academic support staff. Adequate organizational measures to prevent abuses of power and the exploitation of dependency relationships should be implemented by individual research teams and project groups as well as at the management level of research institutions. Imparting the values of academic integrity is an integral part of training students and early career researchers.
- (3) Every member and affiliated member of the University of Konstanz can report suspected research misconduct to the ombudsperson in Konstanz or the German Research Ombudsman (<https://ombudsman-fuer-die-wissenschaft.de/?lang=en>). The suspected misconduct should only be reported to one of these bodies, and once the matter has been decided, the reporting person (hereinafter complainant) should not re-report the same issue to the other body. The reported matter is treated confidentially, which also means that the complainant generally remains anonymous. This person must also be adequately protected from disadvantages as a result of making their report.

Second section: Procedure in case of suspected research misconduct

§ 3 Basic principle and responsibilities

The University of Konstanz investigates all concrete suspicions of research misconduct. To that end, an ombudsperson and a commission of inquiry into research misconduct are appointed. Their procedures uphold the basic principles of fairness and confidentiality as well as the presumption of innocence.

The university provides the ombudsperson as well as the commission of inquiry with the necessary support and acceptance for completing their duties. If required to fulfil these duties, the Rectorate enables the ombudsperson as well as members of the commission of inquiry to take measures to relieve themselves from other responsibilities at the university.

§ 4 Ombudsperson for research

- (1) At the recommendation of the rector, the Senate appoints a university teacher as an ombudsperson for research as well as a deputy ombudsperson for three years; a maximum of one additional term is permitted. The ombudsperson and their deputy cannot be a member of the Rectorate or a Dean's Office during this period. The responsibilities of the ombudspersons for doctoral matters as per § 38 para. 4 LHG remain unaffected.
- (2) The ombudsperson works independently and is not under the authority of another person.
- (3) As a person of trust, the ombudsperson may provide advice and support to those who inform them about a suspected case of research misconduct (complainant(s)).
- (4) In agreement with the parties involved, the ombudsperson may take the matter to arbitration.
- (5) If the ombudsperson receives information about a potential case of research misconduct, the ombudsperson examines the facts of the case exercising professional judgement in evaluating the allegations' plausibility, concreteness and significance, as well as possible motives and ways of clearing up the matter. While keeping the case anonymous and confidential, the ombudsperson may obtain opinions from experts or witnesses (preliminary examination). After completing this examination, the ombudsperson decides whether the case is either closed or forwarded on to another responsible university unit for an official investigation, e. g. the commission of inquiry or, in cases of suspected research misconduct involving a dissertation, the respective Doctoral Committee.
- (6) The investigation is closed if the suspicion of research misconduct is not sufficiently substantiated. The investigation can be closed, when research misconduct is determined to be minimal. This is especially the case if the research misconduct is minor and the person under investigation (hereinafter: respondent) has contributed significantly to clarifying the matter. The complainant will be informed of the decision to close the investigation. This person has the right of remonstrance within two weeks after receiving this notification. If new facts come to light, the decision will be reviewed.
- (7) The respondent will be informed of the final results of the preliminary examination.
- (8) The ombudsperson submits an annual report to the rector.

§ 5 Commission of inquiry into research misconduct

- (1) The commission of inquiry advises the Rectorate on matters related to ensuring good research practice. If deemed necessary after a preliminary examination, the commission is tasked with investigating suspected cases of research misconduct on the part of university members and affiliated members. Former members and

affiliated members are also subject to investigation insofar as their work at the University of Konstanz is concerned.

- (2) The jurisdiction of the examination boards, the doctoral committees and the habilitation committees regarding the assessment and punishment of research misconduct in relation to student and examination issues and in direct connection with the awarding of academic degrees remains unaffected.
- (3) At the recommendation of the rector, the members of the commission are appointed by the Senate for a term of three years. The commission is comprised of three university teachers, one of whom must be qualified to hold judicial office, as well as an academic staff member. A substitute is appointed for each member, for cases where there are partiality concerns or the member is unable to take part. If there is a by-election to replace a member of the commission before their term ends, the new member will fill the position for the remaining period.
- (4) In its first meeting the commission elects a chairperson and a vice chair from amongst its members. The longest-serving member, who chairs the meeting until the new chairperson is elected, shall invite to the first meeting of the newly formed body. In cases where there are partiality concerns or the chair or vice chair is unable to fulfil their responsibilities for a longer period, the commission appoints a new person from amongst its members to this position.
- (5) The members of the commission work independently and are not under the authority of another person. They are bound to secrecy. Unless the members of the commission are civil servants, they must be sworn to secrecy by the commission chair; the same applies to external experts consulted during the investigation. The secrecy obligation must be placed on record for future reference.

§ 6 Procedural arrangements of the commission

- (1) The public is excluded from meetings of the commission. A simple majority is required to pass resolutions. In case of a tie, the chairperson casts the deciding vote. The ombudsperson as well as a dean or vice dean of the faculty that the person suspected of research misconduct (respondent) belongs or belonged to attend the commission meetings in an advisory capacity. The commission can consult other university members or experts if required.
- (2) The investigations carried out by the commission are ex officio. The commission is authorized to take all necessary steps to clear up the matter at hand. To that end, it may request all necessary information and statements, consult expert reviewers familiar with the subject area of the respondent(s) and bring in experts who are well-versed in handling such cases. All University of Konstanz members and institutions are obliged to provide comprehensive support to the commission as it carries out its duties. If expedient, the commission can combine or separate several individual cases brought to its attention which relate to the same matter.

- (3) If the corresponding Examination Board, Doctoral Committee or Habilitation Committee initiates an investigation into research misconduct, the commission puts its own investigation on hold. This also happens when the commission finds out that another ombudsperson or corresponding body is investigating the same matter and has not relinquished its responsibility to do so. If an investigation reveals sufficient evidence of a conduct relevant to disciplinary civil service law or of a grave violation of contractual employment duties, the commission informs the rector without delay.
- (4) The identity of the person who informed the commission of the case of suspected research misconduct (complainant) must not be revealed to the respondent without having given their consent. This is not true when there is a legal obligation to disclose this information or the commission believes that the respondent cannot defend themselves properly otherwise because, in this exceptional case, it is necessary to know the identity of the complainant. The complainant must be notified of the decision to share their name with the respondent and allowed to decide whether to withdraw their report beforehand.
- (5) The respondent must be given the opportunity to make a statement. On request, the respondent may discuss the allegations in an oral hearing and ask a person of trust to attend the hearing with them. The regulations in sentence 2 apply accordingly to the complainant.
- (6) Apart from that, §§ 20 and 21 as well as 88 to 93 of the Landesverwaltungsverfahrensgesetz (state law on administrative procedures) and the Code of Procedure of the University of Konstanz apply. The commission can adopt its own rules of procedure with the approval of the Senate.

§ 7 Conclusion of the investigation, measures

- (1) The principle of the free appraisal of evidence applies to the commission's investigation of the allegations. It must submit a status report on the inquiry and its results to the Rectorate and may issue recommendations. Before submitting the status report to the Rectorate, the commission can hear the respondent with regard to the draft report. If the investigation is to be closed, the respondent and the complainant must be informed by the chairperson of the commission in writing of the key reasons for this decision. There is no complaints procedure against the decision of the commission.
- (2) The Rectorate takes note of the status report and decides which measures to take. The status report is not binding. The corresponding university bodies and officials independently examine whether and which measures are to be taken to punish research misconduct and prevent similar violations in the future. If the status report is to be shared with persons not involved in the investigation, the respondent(s) as well as the complainant(s) must be heard beforehand.

- (3) Depending on the severity of the research misconduct, in particular the following measures can be taken in accordance with the applicable laws:
1. Written reprimand
 2. The respondent is asked to retract or correct corresponding publications, or refrain from publishing respective manuscripts.
 3. Cancellation of funding decisions or withdrawal from funding contracts in cases where the university made the funding decision or concluded the funding contract. If applicable, past funding must be paid back to the university.
 4. For a set period, the respondent is excluded from acting as a reviewer or a member of a university body.
 5. Measures under labour law
 6. Opening of disciplinary proceedings under civil service law
 7. The filing of criminal charges with the police or prosecution
 8. Reporting an administrative offense to the responsible authority
 9. Assertion of claims under civil law
 10. Assertion of claims under public law
 11. Opening of proceedings to revoke an academic degree or propose the opening of such proceedings
- (4) In order to protect third parties, conserve trust in academic integrity, restore an academic reputation, minimize the resulting damage or act in the general public interest, affected third parties and the press must be informed in an appropriate manner and in accordance with the law about the results of the official investigation as well as the measures taken afterwards.

Third section: Final provisions

§ 8 Supplementary measures, file storage

- (1) Once the investigation has been concluded, all university members and affiliated members whose valid interests are affected by proven research misconduct get information from the chairperson on relevant advisory services at the university. In particular, the chairperson advises early career researchers and students involved in a case of research misconduct through no fault of their own, on ways of protecting their personal and academic integrity.
- (2) Files of all investigations performed by the commission must be kept for 30 years and must afterwards be offered to the University Archives as per the Landesarchivgesetz Baden-Württemberg (state archival law). If the University Archives do not accept the files, they must be destroyed instead.

§ 9 Coming into effect

The German version of these regulations comes into effect the day after their publication in the "Amtliche Bekanntmachungen" (official announcements) of the University of Konstanz. At the same time, the previous Statutes to Ensure Good Scientific Practice from 26.02.2018 (as published in "Amtliche Bekanntmachung" no. 9/2018) expire. Proceedings that opened before the new regulations came into effect will be completed in accordance with the regulations from 26.02.2018.

Note:

The German version of these regulations was published in the *Amtliche Bekanntmachungen* of the University of Konstanz no. 64/2023 on 25 July 2023.

The first amendment to these regulations was published in the *Amtliche Bekanntmachungen* of the University of Konstanz no. 8/2024 on 20 February 2024.