

Regulations on the Investigation of Scientific Misconduct

as of 31.01.2024

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

(1) 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.

(2) 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.

(3) The German Research Foundation (DFG, Deutsche Forschungsgemeinschaft) 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.

(4) 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 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 statement such as

- a) the fabrication of data and/or research results,
- b) falsifying data and/or research results (e.g. by selecting and rejecting undesirable results without disclosing this; by manipulating a representation or illustration).

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) the use of third-party content without the required reference,
- b) the exploitation of research approaches and ideas, in particular as a reviewer (theft of ideas),
- c) the falsification of content,
- d) 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,
- e) claiming the authorship or co-authorship of another/other person(s) without his/her/their consent,
- f) 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

(1) The Committee on 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.

(2) 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.

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

Section 4

Composition of the Committee

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

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

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 the allegation of academic misconduct proves to be false or cannot be proven.

Section 8

Management

(1) The day-to-day business of the Committee is conducted by the chairperson. The office of the Committee on Safeguarding Good Research Practice supports the chairperson and the ombudsperson in carrying out their activities.

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

Section 9

Suspected academic misconduct

(1) The University of Cologne investigates every concrete suspicion of academic misconduct.

(2) If the ombudsperson receives indications of academic misconduct, he/she/they examines the facts of the case. The first step is to check that the case is not already being investigated by another department.

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 Committee. The identity of the person providing the information is protected.

Section 10

Investigating academic misconduct

(1) The Committee shall investigate allegations of academic misconduct as part of a preliminary investigation upon notification by the ombudsperson or upon request by one of its members. If the request is made by one of its members, the Committee may first initiate the procedure according to Section 9 (2). The ombudsperson shall attend the meetings in an advisory capacity.

The Rules for Avoiding Conflicts of Interest by the DFG apply to the members of the Committee accordingly, which are checked by the chairperson of the Committee at the beginning of a preliminary investigation and recorded in the minutes.

As part of the preliminary investigation, information can already be requested to clarify the facts of the case.

(2) The preliminary investigation may result in discontinuing the preliminary investigation (Section 10a) or initiating an investigation procedure (Section 10b). The Committee shall vote on this by simple majority.

Section 10a

Discontinuation of the preliminary investigation

- (1) The Committee may decide to discontinue the preliminary investigation if the allegations prove to be false or minor.
- (2) The Committee may decide to discontinue the preliminary investigation if the person concerned has made a significant contribution to clarifying the case.

In particular, it shall be considered a contribution to clarification if the person concerned offers a measure, in particular an erratum or corrigendum, or if he/she/they has already taken measures to remedy any damage that has occurred.

- (3) The whistleblower and the person affected by the allegations shall first be informed of the decision to discontinue.

Section 10b

Initiation of an investigation procedure

(1) If the Committee comes to the conclusion that there is suspicion of academic misconduct, it shall decide to initiate an investigation procedure.

(2) The incriminating facts and, if applicable, evidence shall be provided in writing to the person concerned. The person concerned may indicate, stating the reasons, that a member of the committee is suspected of being biased. In such cases, the chairperson shall decide on the validity of the reasons and, in the event of bias, shall replace the member concerned with a deputy.

(3) The person concerned shall be given the opportunity to comment. The statement shall in principle be made in writing. The deadline is generally four weeks. It may be extended depending on the circumstances of the individual case.

Alternatively, the statement of the person or persons concerned may be made orally (hearing) at their request.

(4) 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.

(5) If the identity of the whistleblower is not known to the person concerned, this shall be disclosed to him/her/them if there is a legal obligation to do so or if this information appears necessary for the proper defence of the person concerned because the identity of the whistleblower is exceptionally important. The whistleblower shall be informed of this in advance.

Section11

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.

Section12

Demonstrability of academic misconduct and sanctions

(1) If the Commission considers academic misconduct to have been proven by a simple majority after completion of the investigation procedure, it shall also deliberate on the options for further action, in particular on possible consequences.

(2) Since violations can involve very different individual cases, various consequences are possible, in particular:

- a) Written reprimand to the person concerned,
- b) Request to the person concerned to retract the incriminated publication or to correct incorrect data (in particular by publishing an erratum or corrigendum),
- c) Exclusion from eligibility to apply for internal funding lines for one to eight years, depending on the severity of the scientific misconduct,
- d) Exclusion from committees or revocation of the right to vote and stand for election to university committees for one to eight years depending on the severity of the academic misconduct.

The consequences are 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.

(3) 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.

Section13

Report to the Rectorate

The Committee reports the results of its investigations (Section 10b) to the Rectorate and submits recommendations for decision.

Section 14

Decision by the Rectorate

(1) The Rectorate shall decide on the basis of the report and recommendation of the Committee whether it will follow the Committee'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 whistleblower 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

Section15

Scope of application, entry into force

(1) These Regulations apply to all members and staff of the University of Cologne, including those who also fulfil official duties in patient care at University Hospital Cologne.

(2) With the entry into force of these Regulations, the Guidelines for Dealing with Academic Misconduct of 25 January 2022 (Amtliche Mitteilungen 9/2022) shall cease to apply.

Issued by resolution of the Senate of the University of xx.xx.xxxx.

Cologne, xx.xx.2024

signed
The Rector
of the University of Cologne

Professor Dr Joybrato Mukherjee