Universität Hamburg
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6 August 2014

Translation of "Satzung zur Sicherung Guter wissenschaftlicher Praxis und zur Vermeidung wissenschaftlichen Fehlverhaltens an der Universität Hamburg vom 15.05.2014"

OFFICIAL NOTICE

Published by the president of Universität Hamburg and
Section 31: Quality Management and Legal Affairs

Bylaws for Safeguarding Good Scientific Practice and Avoiding Scientific Misconduct at Universität Hamburg

Dated 15 May 2014

The Academic Senate of Universität Hamburg has resolved to adopt the following Bylaws, which reflect the memorandum entitled *Safeguarding Good Scientific Practice* issued by the German Research Foundation. Recommendations and regulations on good scientific practice laid down by other organizations, either generally or for individual disciplines, supplement those laid down by the German Research Foundation.

Preamble

Scientific work is based upon basic principles that apply equally in all academic disciplines.[1] Being truthful towards both oneself and others as well as striving for new scientific knowledge belong to these basic principles in equal measure. These basic principles form both the ethical norm and the basis for the rules governing scientific professionalism, which may vary from discipline to discipline.

Striving for new knowledge and developing new hypotheses and new theoretical frameworks are the cornerstones of scientific work. Integrity, trust, and responsibility are just as fundamental to scientific work as they are to society in general. This includes readiness on the part of the individual, as a member of the scientific community, to assume responsibility for achieving scientific and social progress, and to fulfill said responsibility.

These Bylaws serve to safeguard good scientific practice in research in accordance with the German Research Foundation's 1998 decision to strengthen the system of self-regulation in science.

Section 1 Scope

These Bylaws apply to all those working at Universität Hamburg and at the University Medical Center Hamburg-Eppendorf. This includes, in particular, professors and junior professors, research associates, research assistants, *Privatdozenten* (senior lecturers with no permanent teaching contract), professors pursuant to Section 17(1) of the Hamburg Higher Education Act (HmbHG), students, doctoral students, and members of non-academic staff, inasmuch as the latter are employed in research.

These Bylaws also apply to persons belonging to these groups who no longer work at Universität Hamburg or the University Medical Center Hamburg-Eppendorf but have been accused of scientific misconduct which was allegedly committed during their period of employment at the aforementioned institutions.

Section 2 Good scientific practice

(1) Members of Universität Hamburg are obliged to uphold the basic principles of scientific integrity and, in particular, to:

- work *lege artis;*
- always document both the research process and research results;
- always critically evaluate and challenge their own findings;
- maintain absolute honesty with regards to contributions from project partners, students under supervision (doctoral students), competitors, and predecessors;
- ensure that young researchers receive adequate supervision;
- assume responsibility for leading research groups and strengthen scientific cooperation;
- abide by regulations governing the securing and storing of primary data (see Section 4(4));
- always respect the intellectual property of others;
- comply with ethical standards when conducting surveys and experiments.

(2) Good scientific practice may only be achieved when all members of the University cooperate. Each individual scientist is first and foremost responsible for upholding and communicating the rules governing good scientific practice, in particular those in

[1] In these Bylaws, "science" is used in the broader sense of the German term "Wissenschaft" to denote research carried out in all academic disciplines, not just those belonging to the natural and the social sciences.

senior positions, for example, as heads of departments and/or research groups, project leaders, or supervisors.

Faculties, departments, and academic units shall carry out the task entrusted to them of organizing research and academic matters in equal measure to their task of training and supporting young researchers. They are thus responsible for creating the organizational, institutional and infrastructural conditions for safeguarding good scientific practice individually and via their collegiate bodies.

(3) Supporting young researchers is one of the central responsibilities of professors and junior professors. Responsible supervision of young researchers must be ensured. Professors and junior professors must actively support young researchers so that they can complete research and courses that are necessary for achieving a qualification within a reasonable period of time. Furthermore, they must assess work promptly, and support students' subsequent professional development within the academic field. In order to define individual parameters as well as the rights and obligations of both supervisors and doctoral students, it is recommended that both parties enter into a supervision agreement. All doctoral degree regulations contain a provision obligating all parties to comply with these Bylaws.

Section 3 Scientific misconduct

(1) Scientific misconduct occurs when the standards of good scientific practice are breached either knowingly or through gross negligence. This includes, in particular, situations in which ethical norms are violated, information is falsified and manipulated, the intellectual property of others disregarded, and when the research activities of others are compromised or impeded in any way.

(2) The following situations in particular constitute cases of scientific misconduct:

1. Falsification of information by:
   - fabricating data;
   - distorting data and sources, for example, by:
     - suppressing sources, data, evidence, or texts relevant to research questions;
     - manipulating sources, data, interpretations, or depictions;
     - selecting and rejecting undesired results without disclosure.
   - providing incorrect information in either a job or funding application (including false information regarding publisher, forthcoming publications, theses supervised, contributions from third parties, etc.);
   - providing incorrect information relating to the academic performance of applicants in selection and review committees;
   - concealing conflicts of interest.
2. Infringement of intellectual property rights:
   - with respect to the copyright-protected work of another person or
   - to important scientific findings, hypotheses, teachings, or research approaches of others through:
     - unauthorized use under the pretense of authorship (plagiarism);
     - unauthorized use of research approaches and ideas, in particular during the review process (intellectual theft);
     - the pretense of scientific authorship or co-authorship without any individual scientific contribution;
     - the falsification of content, for example, the arbitrary omission or addition of results and/or information relevant to the topic;

- publication without prior authorization or the unauthorized disclosure to a third party while the work, finding, hypothesis, curriculum, or research approach remains unpublished;
- claiming (co-)authorship by another person without their prior consent;
- arbitrarily delaying the publication of a scientific work, in particular when acting as publisher, reviewer, or co-author.

3. Compromising the research activities of others by:
   - sabotaging the research of others, for example, by
     - damaging, destroying, removing, or manipulating experiment designs, machines, documents, hardware, software, chemicals, or other materials and objects required by others to carry out experiments;
     - maliciously misplacing or stealing books, archival documents and objects, manuscripts, and data sets;
     - intentionally rendering scientifically relevant sources of information unusable;
     - removing primary data, insofar as this violates legal provisions, the mutually accepted principles of scientific practice within a discipline, or these Bylaws;
     - destroying or passing on research material without authorization:
   - terminating academic cooperation without adequate reason or obstructing or delaying the publication of research results as co-author, in particular when the author requires the co-author's consent in order to publish. In such cases, it is possible to publish data without assent from the co-author who has terminated scientific cooperation so long as permission is sought from the Ombuds Committee and no copyright issues stand in the way of publication.
4. Refusing cooperation or intentionally delaying efforts to resolve cases of scientific misconduct, for example, in the context of an ombuds procedure or an official investigation.

(3) Co-responsibility for scientific misconduct can arise from:
- actively taking part in the misconduct of others,
- possessing knowledge of acts of falsifications by others,
- co-authoring falsified publications, and
- grossly breaching the duty of supervision.

Section 4 Avoiding scientific misconduct

In order to safeguard good scientific practice and to avoid scientific misconduct, the following compulsory rules must be adhered to at Universität Hamburg:

(1) The basic principles of scientific work and good scientific practice should be communicated to students when they commence their studies. This should encourage students to behave honestly and make them aware of their responsibilities as persons working in science and academia. The potential for engaging in scientific misconduct is to be raised in an appropriate manner in order to adequately sensitize students and young researchers to this issue. professors and junior professors are expected to act as role models in this respect.

(2) Where the standards in individual disciplines require, it is preferable to form scientific working groups when carrying out research. Cooperation within such working groups should be organized so that results obtained by means of a specialized distribution of tasks are communicated mutually, submitted to critical discourse, and integrated into a shared state of knowledge.

(3) Criteria relating to performance evaluation must be based upon qualitative parameters and rendered transparent. Reviewers involved in the review process shall be impartial and independent.

(4) Primary data forming the basis of publications must be stored on durable and secure storage devices for ten years in the institution of origin, unless special regulations specify a longer period of storage. The institutions responsible must issue rules concerning the type and means of recording, documentation, storage, and use of the data. In particular, institutions must define the date at which the mandatory period of storage shall commence. (Recommendation: From the date of publication. For doctoral dissertations, from the date of submission to the doctoral studies office). Doctoral students must be made aware of these rules when they commence doctoral studies. Scientists who leave an institution should be given the opportunity to take copies of their research data with them. It is furthermore recommended that agreements be reached regarding both previous and future use of data.

Section 5 Authorship and intellectual property

(1) Strict honesty concerning the contributions of partners, rivals, predecessors, and doctoral students must be maintained.

Only persons who have contributed significantly to conceiving a study or experiment, generating, analyzing and interpreting the data, preparing the manuscript, and who have consented to its publication – i.e., they are (co-)responsible for the content of the publication – may be named as authors of a scientific original publication.

A co-authorship resting on a person's position either as current or former head of an academic institution or as a superior is inadmissible. A so-called "honorary authorship" is inadmissible.

(2) The following forms of contribution, each in its own right and allowing for practices specific to individual disciplines, normally constitute criteria for establishing authorship or co-authorship:

- conceiving a scientific study
- developing methods for the purposes of conducting a study
- interpreting scientific data and constructing models
- writing a scientific study
- contributing materials for an experiment and/or investigation including specialist scientific support
- participating in the survey, collection, compilation, and evaluation of data

The following forms of contribution, each in its own right, do not suffice as grounds for establishing authorship or co-authorship:

- responsibility for obtaining research funding
- occupying the position of head of either department or working group in which research underpinning the publication was conducted
- mere technical production of graphics or tables derived from existing data
- mere technical support, for example, provision of equipment and/or experimental materials
- reading a manuscript without substantial contribution to its content

Work-based associations between contributors are irrelevant when determining (co-) authorship.

(3) Particularly in those disciplines where research is conducted in teams or groups, team/group leaders must provide transparency and clarity about work carried out

by the individual contributors. In accordance with legal provisions, it is necessary to clarify and enter into a written agreement on authorship, access to, and use of data prior to any data collection. Young researchers dependent upon specialized data for completing their dissertations are to be guaranteed access to these data, even after their formal term of employment has ceased.

(4) Scientific publications intended to report new scientific findings must describe the current status of research in the field, methods, and findings completely and coherently.

(5) Authors of a scientific publication must disclose important findings that both substantiate and contradict their results, hypotheses, and findings in equal measure. Authors' previous work, the preliminary work of others, and relevant publications by other authors that directly form the basis of the study in question must be correctly and fully accounted for and/or cited.

(6) Re-publishing findings without explicitly disclosing the repetition is fundamentally inadmissible. This also applies to translations of scientific publications.

Section 6 Ombuds Committee

(1) All current and former members of the University shall have access to ombudspersons, who provide confidential counsel on all matters relating to good scientific practice and allegations of scientific misconduct. Ombudspersons shall be appointed from the ranks of the University's active professors (the faculty). Appointments must reflect both the University's academic structure and the volume of cases. The particular conditions governing clinical medicine must also be taken into consideration when appointing ombudspersons.

(2) Ombudspersons shall work independently, shall not be subject to instructions, and shall act as impartial mediators. Ombudspersons should have extensive experience in conducting research projects and in training young researchers, and should also have national and international contact networks. Professors holding offices that obligate them to take action on the basis of information they receive, such as deans, should not be appointed as ombudspersons.

(3) Ombudspersons shall be appointed by the president of the University on the recommendation of the Academic Senate. The term of office shall be for three years. Reappointment for one further term of office is possible.

The names of the ombudspersons shall be made public within the University accordingly.

(4) Ombudspersons mutually represent one another and together they make up the Ombuds Committee. It serves to provide its members with information as well as counsel in individual cases, and should assist in guaranteeing the highest level of consistency possible when applying the rules of good scientific practice and dealing with incidences of their violation. The Ombuds Committee also advises the Presidium and the offices of the deans in the faculties in fundamental questions relating to good scientific practice and can make recommendations accordingly.

The Ombuds Committee shall elect a chairperson from the appointed committee members. The Committee shall convene according to need, usually once a semester, at the invitation of the chairperson, or at the request of one of its members. Decisions

shall be passed upon simple majority vote. In the case of a tied vote, the chairperson shall have the deciding vote. The Ombuds Committee shall adopt its own rules of order and procedure to enable it to process queries and information.

The Ombuds Committee shall submit an annual report on its current and past work to the president of the University. Furthermore, ombudspersons may anonymously provide details of their work to the respective faculties.

Section 7 Ombuds proceedings

(1) The purpose of the ombuds proceedings is to mediate conflicts in an unbureaucratic and objective manner. In relation to other special proceedings, such as those carried out by the Doctoral Committee when reviewing grounds for revoking a doctoral degree, the ombuds proceedings are in principle subsidiary. The ombuds proceedings consist of an independent assessment of the conflict, consideration of the arguments brought forward by those involved and/or affected, as well as the internal examination of facts and data relating to the case. The aim of the ombuds proceedings is to reach a solution satisfactory to both parties in a conflict. The ombudspersons will not initiate any proceedings without information from a person involved in or affected by a case.

(2) The ombudspersons act as confidential contact persons for all current and former members of the University with allegations or in possession of evidence relating to a case of scientific misconduct. Every member of the University has the right to speak to an ombudsperson in person without unreasonable delay.

(3) The ombudspersons first evaluate information proffered as sufficient evidence of scientific misconduct in terms of its relevance and unambiguity, as well as any potential non-academic motives of the informant. Ombudspersons sound out possibilities to clear allegations, counsel, and mediate between those involved with the aim of resolving conflicts as amicably as possible. This also includes determining whether or not a more specialized procedure for resolving conflicts is available.

The ombudspersons may investigate reasonable suspicions supportable with proof on behalf of an informant without revealing the informant's identity to third parties; this does not apply to notification of the president of the University, in accordance with provisions laid out in subsection 5 sentence 2 herein. In doing so, the ombudspersons must respect the interests of the informant regarding confidentiality. Information provided anonymously will, in general, not be investigated.

Ombudspersons are subject to regulations regarding concerns about the lack of impartiality pursuant to Sections 20 and 21 of the Hamburg Administrative Procedures Act (HmbVwVfG) and Section 54 of the Hamburg Civil Service Act (HmbBG).

(4) In order to investigate a matter, ombudspersons are authorized to gather all requisite information and responses, while safeguarding the interests meriting protection of those involved, and to consult experts in the respective field as a case may dictate.

Cooperation in an ombuds procedure is mandatory for all members of the University and no one may decline from cooperating.

The ombudspersons may make a recommendation for resolving a conflict on the basis of knowledge gained by examining all information and statements submitted to them. This recommendation should take the form of a written agreement and include a deadline for implementing the recommendation. This also applies to cases in which examination of the evidence indicates scientific misconduct as defined by Section 2 of these Bylaws that may, however, be rectified by a recommendation by the ombudper-

sons (for example, an erratum concerning authorship). In cases where an agreement cannot be reached or implemented, the Ombuds Committee shall debate the option of referring the matter to the Permanent Committee of Experts for Investigating Scientific Misconduct (Section 8).

(5) In order to protect persons providing information and persons suspected of scientific misconduct, the work of the ombudspersons within the University is subject to the strictest confidentiality. This strict confidentiality must be maintained by all those involved in the case and this duty of confidentiality shall extend indefinitely beyond conclusion of the proceedings. This does not apply to the report submitted to the president of the University in cases where reasonable suspicion of scientific misconduct exists so that the University may avoid suffering serious harm or loss in the case of a conflict. Where there is reasonable suspicion of scientific misconduct from within the Faculty of Medicine, this provision shall also apply to the report submitted to the Medical Director of the UKE. Responsibility shall rest with the chair of the Ombuds Committee.

A breach of confidentiality may be judged to be a violation of the rules of good scientific practice (and, in certain circumstances, as scientific misconduct), for example, when a person involved in an ongoing ombuds procedure addresses the public.

Persons who provide specific information relating to a suspicion of scientific misconduct must not suffer disadvantage in their own scientific and career progress as a result. Responsibility for ensuring this shall rest with the head of the institution concerned.

(6) Documentation and files relating to inquiries and ombuds procedures must be stored for thirty years. The management of the institution shall provide further detailed information in this regard.

Section 8 Permanent Committee of Experts for Investigating Scientific Misconduct

(1) If, upon examination of all supporting documents and responses submitted, there is reasonable suspicion of scientific misconduct as defined by Section 3 of these Bylaws, then the ombudspersons shall remit the matter to the Permanent Committee of Experts for Investigating Scientific Misconduct.

The task of the Committee of Experts is to clarify and determine whether there has been any scientific misconduct while affording the parties substantive and procedural due process. Where applicable, the Committee must make its recommendations for any sanctions.

(2) The Committee of Experts shall be comprised of five professors, of which at least one shall be a professor from the Faculty of Medicine. Members of the Committee of Experts shall be appointed by the president of the University on the recommendation of the Academic Senate. The committee member from the Faculty of Medicine shall be nominated by the dean on the recommendation of the Medicine Faculty Council and appointed by the president of the University. Furthermore, three additional members drawn from the four status groups who are lawfully eligible shall be assigned to the Committee of Experts in an advisory capacity. They shall be recommended by the three other status groups in the Academic Senate and appointed by the president of the University. If none of the nominated members is qualified to hold a judicial office, the Committee of Experts may in such a case consult one such person (see sub-section 3 hereto). The members shall elect a chairperson from within their own ranks upon a simple majority vote.

The term of office shall be for three years. Reappointment for one further term of office is possible.

Members of the Committee of Experts may not simultaneously hold the office of ombudsperson at Universität Hamburg.

(3) The Committee of Experts shall be quorate when at least three of its members are present. Decisions shall require a simple majority vote and, in the case of a tied vote, the chairperson shall have the deciding vote.

The Committee of Experts may consult further persons as experts in individual cases, including ombudspersons of Universität Hamburg. In cases where there is reasonable suspicion of scientific misconduct in the Faculty of Medicine, additional experts should be appointed upon consultation with the dean of the Faculty of Medicine.

(4) The Committee of Experts shall be coordinated by an administrative unit determined by the president of Universität Hamburg.

Section 9 Investigation proceedings

(1) The provisions set forth in the Hamburg Administrative Procedures Act (Hamburgisches Verwaltungsverfahrensgesetz) as amended shall apply as appropriate to the investigation proceedings, unless otherwise provided for as set forth below.

(2) The Committee of Experts shall not convene publicly. In order to investigate the matter, the Committee is authorized to gather all information and responses, while safeguarding the interests meriting protection of those suspected and shall marshal evidence *de novo* about whether scientific misconduct has been committed. The person suspected of scientific misconduct must be informed of the incriminating facts and any existing evidence without undue delay and given suitable opportunity to provide a written response. The request for a written response must specify a deadline by which to serve the response.

(3) A hearing must be scheduled upon motion or request of the suspected party, who may choose to have representation present at the hearing. This shall also be applicable to any other person testifying at the hearing.

(4) The Committee of Experts shall submit the results of its investigation in the form of a final report and a recommendation for further action to the president of the University and, where applicable, to the medical director of the UKE/Managing Board of the Faculty of Medicine. Concurrently, the Committee shall inform accused persons and informants about the material outcome of the investigation.

Records from the formal investigation must be stored for thirty years. The management of the institution shall provide further detailed information in this regard.

(5) If a case of scientific misconduct has been established, the president of the University and, where applicable, the dean of the Faculty of Medicine and/or the medical director of the UKE, shall examine the need for further measures and shall decide upon the punishment for scientific misconduct. This examination is designed to preserve Universität Hamburg's academic standards and the rights of all those persons directly and indirectly concerned.

(6) Within the University, the academic consequences of scientific misconduct, for example, the revocation of academic degrees or the authorization to teach, must be examined at the faculty level in consultation with the president of the University and, where applicable, the dean. In doing so, it must be determined whether and to what extent other researchers (former and potential research partners, co-authors), academic institutions, scholarly and scientific journals and publishing houses (in the case of publications), funding bodies and/or academic organizations, professional bodies, associations and societies, ministries, and/or the public should or must be informed.

(7) The respective responsible bodies or institutions shall initiate the proper employment law, civil law, criminal law, or administrative proceedings depending on the facts of the case. (See Annex: Possible Consequences Associated with Scientific Misconduct).

Section 10 Effective Date

These Bylaws shall become effective on the date they are officially published. Concurrently, the *Guidelines for Safeguarding Good Scientific Practice and Avoiding Scientific Misconduct at Universität Hamburg* (*Richtlinien zur Sicherung guter wissenschaftlicher Praxis und zur Vermeidung wissenschaftlichen Fehlverhaltens an der Universität Hamburg*) from 9 September 1999 as amended on 8 March 2001 and 17 February 2005 shall be repealed.

Annex

Partial overview of possible consequences associated with scientific misconduct

1. Work-related consequences:
Since in most cases of scientific misconduct at Universität Hamburg it can be expected that the individual concerned is both an employee or civil servant of the Free and Hanseatic City of Hamburg and working at Universität Hamburg, there will generally be a need to examine legally relevant work-related consequences for the employee or civil servant:

a) In cases where a civil servant is involved, disciplinary proceedings will be initiated and disciplinary measures imposed (e.g., reprimand, fine, or removal from the civil service position).
b) In cases of non-civil servant public employees, consequences are subject to employment law (e.g., reprimand, dismissal, termination of the employment contract).

2. Academic consequences:
Universität Hamburg may only enforce academic consequences in the form of rescinding any academic degrees so long as the University itself conferred the academic degree to the individual concerned. If another higher education institution conferred the academic degree, then this institution will be notified about the scientific misconduct, if such misconduct is linked to the acquisition of such academic qualification. In particular, the divesture of the corresponding academic degree and, where applicable, the revocation of any teaching authorization will be taken into consideration.

3. Civil consequences, for example:

a) A person may be banned from the premises;
b) An action of replevin may be brought against the individual concerned for the recovery of wrongfully converted scientific and academic material;
c) An action for abatement or injunctive relief premised on copyright, patent, and anti-competition laws;
d) An action for damages brought by the Free and Hanseatic City of Hamburg, Universität Hamburg, or a third party for personal injury, property damage, or the like.

4. A claim to recover unjustly retained benefits according to civil and administrative law provisions (e.g., with respect to scholarships or financial aid, external funding, or government grants).

5. Criminal consequences, for example, with respect to:

a) Violation of privacy (Section 202a of the German Criminal Code (StGB): Data espionage, Section 204 StGB: Exploitation of another's confidential information);
b) Crimes against property (Section 242 StGB: Theft, Section 246 StGB: Criminal misappropriation of personal property, Section 263 StGB: Fraud, Section 264 StGB: Subsidy fraud, Section 266 StGB: Embezzlement);
c) Falsification of documents (Section 267 StGB: Forgery, Section 268 StGB: Falsification of technical records);
d) Criminal property damage (Section 303 StGB: Criminal property damage, Section 303a StGB: Data tampering);
e) Copyright infringements (Section 106 of the German Copyright and Related Rights Act (Urheberrechtsgesetz): Unlawful exploitation of copyrighted works).

6. Retraction of scientific publications, public information or the media:

a) Scientific publications that have serious errors due to scientific misconduct must be withdrawn if they have not yet been published and, if already published, corrected (retraction). To the extent necessary, cooperation partners must be appropriately notified. In such a case the Ombuds Committee should be consulted first.

   To this end the authors and the participating publishers are generally obligated and, should they take no action, Universität Hamburg shall initiate appropriate measures at its disposal.

b) If scientific misconduct has been determined, Universität Hamburg shall notify other research institutions or scientific organizations that are affected. In justifiable cases, it may be appropriate to inform professional organizations or learned societies.

c) In order to preserve confidence in its scientific and academic integrity or to restore its endangered reputation in the scientific and academic community (or the reputation of a faculty, a professor, or a doctoral student), Universität Hamburg may be obligated to inform others who are affected as well as the public at large. An attempt to obtain the acquiescence of each party concerned must be made.