

Regulations for safeguarding good scientific practice and dealing with scientific misconduct at Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU)

Dated 10 October 2017

With reference to Section 13 (1)(2) in conjunction with Sections 6 (1)(3)(2) of the Bavarian Higher Education Act (BayHSchG), FAU passes the following regulations:

Table of contents:

Part I	1
Purpose and scope	1
Section 1 Purpose	1
Section 2 Scope.....	2
Part II	2
Good scientific practice	2
Section 3 General rules for good scientific practice	2
Section 4 Supervising young researchers	3
Section 5 Dealing with primary data	3
Section 6 Authorship.....	3
Section 7 Responsible reviewing	4
Part III	4
Scientific misconduct	4
Section 8 Scientific misconduct.....	4
Part IV	6
Quality management and internal monitoring	6
Section 9 Internal University bodies for monitoring scientific misconduct	6
Section 10 Ombudsperson.....	6
Section 11 Committee for the investigation of scientific misconduct.....	7
Part V	7
Procedure in event of suspected scientific misconduct	7
Section 12 Duty of clarification	7
Section 13 Procedural principles.....	7
Section 14 Ombudsman proceedings	8
Section 15 Initial investigation	9
Section 16 Formal investigation	9
Part VI	10
Final provisions	10
Section 17 Legal validity, transitory provisions	10
Appendix: Possible consequences of scientific misconduct	12

Part I: Purpose and scope

Section 1 Purpose

1Within the context of its legal mandate, FAU is responsible for safeguarding good scientific practice in research and teaching, as well as when supporting young researchers. 2Those involved in research at FAU are committed to academic integrity, see Section 6 (1)(3) of the Bavarian Higher Education Act (BayHSchG). 3These regulations are intended to promote good scientific practice and stipulate how scientific misconduct is to be dealt with.

Section 2 Scope

(1) 1These regulations shall apply to all FAU members involved in academic work. 2This includes students and administrative employees involved in research, as well as academic staff. 3These regulations shall also apply to people pursuing a doctoral degree or a habilitation supervised by an FAU professor, even if they are not members of FAU.

(2) The regulations shall also apply to former members, former doctoral candidates and former habilitation candidates at FAU if they are accused of scientific misconduct concerning their activities at FAU.

(3) If the accusation of scientific misconduct concerns a time at which the person was not yet a member of FAU, FAU can either demand that the affected institution carries out an investigation into the allegation or carry out an investigation pursuant to these regulations itself.

Part II: Good scientific practice

Section 3 General rules for good scientific practice

(1) 1The members of FAU are obliged to comply with rules of good scientific practice. 2These rules comprise in particular

1. General principles of academic work such as
 - a) working in accordance with professional standards
 - b) documenting findings
 - c) consistently questioning the validity of all results
 - d) being strictly honest in view of all contributions from partners, competitors and predecessors
 - e) joint responsibility of authors and exclusion of honorary authorship
2. Abiding by special rules for individual disciplines.

(2) 1Good scientific practice is only possible if all members of FAU commit to it. 2Each individual scientist and academic is responsible for complying with and communicating the current rules of good scientific practice. 3The faculties shall ensure that standards of good scientific practice are communicated at all times in all degree programmes and when supervising doctoral candidates. 4Whilst faculties are responsible in the last instance, those in charge of work areas or working groups must take appropriate

organisational measures to ensure that managerial, supervisory and quality control tasks, including the clarification of standards of good scientific practice, are assigned to specific individuals and that these duties are fulfilled.

Section 4 Supervising young researchers

(1) ¹Individuals with doctoral degrees, doctoral candidates, graduates and students involved in research projects are entitled to regular academic advice and support from supervisors or those in charge of working groups. ²They are obliged to work responsibly and cooperate well with colleagues. ³The extent to which each individual is involved in the entire academic project shall be documented.

(2) ¹The duty to supervise young researchers includes actively contributing to the timely completion of the work required for the respective qualification level. ²It is recommended that supervision agreements are concluded defining the specific conditions and the rights and duties of supervisors and doctoral or habilitation candidates.

(3) The faculties shall ensure that the standards for good scientific practice are an integral component in the training of young researchers.

Section 5 Dealing with primary data

(1) Primary data on which publications are based shall be kept by the authors in the academic institution in which the data were created for at least ten years from the date of publication on permanent and secure storage media, provided the data has to be kept available for checking at a later date and storing the data does not infringe any legal provisions.

(2) ¹If an employee leaves the department, the original data shall remain at the original location and FAU shall take precautions to ensure that the primary data are forwarded appropriately and access rights clarified. ²Primary data shall be saved in an appropriate manner and protected from unauthorised access. The individuals entitled to access the data shall be named. ³If there are no data protection rules to the contrary, authors shall be given the opportunity to create a copy of the data before leaving the department.

Section 6 Authorship

(1) ¹Only those individuals who have made a considerable contribution to an academic publication shall be considered (co)authors. ²Only those individuals who have made a considerable contribution to drafting the research or experiments, to creating, analysing and interpreting the data, or to wording the draft of the publication and have agreed to publication, accepting responsibility for the same, shall be considered the author(s) of an original academic publication. ³(Co)authorship cannot be claimed merely on the basis of a person's position as the current or former head of an academic working group or as a supervisor. ⁴Honorary authorship is not permitted.

- (2) The following contributions, seen individually, are not sufficient to claim (co)authorship:
1. Purely organisational responsibility for acquiring funding
 2. Providing standard material for investigation
 3. Instructing staff in standard methods
 4. Purely technical assistance in collecting data
 5. Purely technical support, for example merely providing equipment and animals for testing
 6. Merely providing data on a regular basis
 7. Merely reading over the draft publication without making a substantial contribution to the contents
 8. Heading an institution or organisation in which the publication is written.

(3) ¹Authors of an original academic publication must report on findings which contradict their findings and hypotheses to the same extent as those which support them. ²Previous research by the author or other individuals and relevant publications from other authors on which the work is based directly must be cited and attributed completely and correctly.

(4) The above provisions shall apply accordingly to publishers of academic editions.

Section 7 Responsible reviewing

(1) ¹Information or ideas which a reviewer learns of before others thanks to their position as a reviewer shall be treated confidentially and may not be used to obtain a competitive advantage. ²The reviewer shall disclose any conflicts of interest arising from being in competition with, cooperating with or being related in any other way to authors of a submitted publication, those submitting a proposal for a project or applicants for academic positions.

(2) ¹Publications can be assessed on the basis of their impact factor as an additional consideration, but this shall not replace the requirement to assess the contents. ²The quality of the contents must be assessed if academics are to be judged in comparison with one another.

Part III: Scientific misconduct

Section 8 Scientific misconduct

(1) ¹Scientific misconduct is when there has been a (wilful or grossly negligent) breach of standards of good scientific practice. ²There is considered to have been a breach in particular

if, in a context of academic importance, incorrect statements have been made, intellectual property rights of other parties have been infringed or research of third parties has been damaged to a considerable extent either wilfully or grossly negligently. Each case shall be assessed on the basis of the individual circumstances.

(2) The following is a non-exhaustive list of instances of scientific misconduct:

1. Giving incorrect information:

- a) Fabricating data, sources, evidence, illustrations, texts or research findings,
- b) Falsification of any of the above, e.g.
 - aa) by failing to mention data, sources, evidence, illustrations, texts or research findings relevant to the issues being investigated
 - bb) by manipulating data, sources, evidence, illustrations, texts or research findings
 - cc) by selecting and rejecting undesirable research findings without disclosing that this has been done
- c) Giving inaccurate information in a letter of application or application for funding (including incorrect statements regarding scientific journals and publications currently in print)
- d) Giving inaccurate information on the academic performance of applicants in a selection or review committee
- e) Failing to disclose any conflicts of interest

2. Infringing intellectual property rights:

- a) Relating to a work protected by copyright which has been created by another person or to essential academic findings, hypotheses, teachings or research approaches originating from others
 - aa) using such works without authorisation and while claiming to be the author of the same (plagiarism)
 - bb) using or exploiting research approaches and/or ideas without authorisation, in particular as a reviewer (theft of ideas)
 - cc) assuming or accepting without reason authorship or co-authorship or publication or joint publication rights to an academic work
 - dd) falsification or fabrication of contents
 - ee) publishing and/or making contents available to third parties without authorisation before the work, the findings, the hypothesis, the theory or the research approach has been published
- b) Claiming (joint) authorship or (joint) publication rights to an academic work from another person without first obtaining their permission

3. Jeopardising the research of others:

- a) Sabotaging research (including by damaging, destroying or manipulating the design for an experiment, equipment, documentation, hardware, software, chemicals or other materials required by another person to conduct the experiment)
- b) Removing primary data if doing so constitutes a breach of legal provisions or recognized principles of scientific practice relating to the discipline in question

4. Refusing to participate in or deliberately delaying efforts to clarify any instances of scientific misconduct, e.g. within the framework of ombudsman proceedings within the meaning of Section 14 or a formal investigation within the meaning of Section 16.

(3) ¹Anyone who shares responsibility for breaches committed by others shall also be considered to have breached standards of good scientific practice. ²A person may in particular be considered to share responsibility if they:

1. actively contributed to the scientific misconduct of others
2. are proven to have been aware of forgery or falsification committed by others
3. are co-authors of publications suspected of forgery or falsification
4. have neglected their duty to supervise.

Part IV

Quality management and internal monitoring

Section 9 Internal University bodies for monitoring scientific misconduct

(1) In order to investigate claims of scientific misconduct, FAU shall appoint the following internal University bodies for monitoring scientific misconduct:

1. Ombudsperson and deputy
2. Standing committee for the investigation of scientific misconduct

(2) ¹The ombudsperson and the committee shall prepare the findings submitted by the responsible committees of the University and advise the Executive Board of the University and FAU researchers in questions relating to the safeguarding of good scientific practice.

²The ombudsperson, their deputy and the members of the committee shall carry out their duties independently and are not bound by instructions.

(3) A Vice President or a Dean may not accept the office of ombudsperson or be appointed a member of the committee.

Section 10 Ombudsperson

¹The ombudsperson and their deputy shall be active professors and shall be appointed by the Senate for a period of five years at the suggestion of the President.

2They may be reappointed for one further term of office.

Section 11 Committee for the investigation of scientific misconduct

(1) The committee for the investigation of scientific misconduct shall consist of three professors with significant research experience.

(2) 1 The members of the committee shall be appointed by the Senate for a period of three years at the suggestion of the President. 2They may be reappointed for one further term of office.

(3) 1The committee shall appoint one of their members to the position of chairperson. 2The chairperson shall be elected on an annual basis. 3They may be reappointed for one further term of office.

(4) The ombudsperson and their deputy shall have an advisory role in the committee.

(5) 1The members of the committee together with the ombudsperson and their deputy are intended to represent the faculties of FAU. 2One of the members should be entitled to exercise the office of a judge.

Part V

Procedure in event of suspected scientific misconduct

Section 12 Duty of clarification

(1) FAU shall investigate all instances when there are specific grounds to suspect scientific misconduct, no matter the standing of the person involved.

(2) The relevant examining committees of the faculties shall be solely responsible for investigating misconduct relating to examination achievements which count towards degrees.

(3) If an investigation confirms that scientific misconduct has taken place, measures appropriate for the individual case shall be taken in accordance with available legal remedies (see Appendix: Possible consequences of scientific misconduct).

Section 13 Procedural principles

(1) 1In order to protect the persons reporting the suspected misconduct, those affected by the allegations and the reviewers responsible for investigating the case, all proceedings concerning suspected scientific misconduct at FAU shall be conducted in utmost confidentiality. All affected parties shall continue to maintain strict confidentiality concerning the matter even after the case has been closed, subject to statutory rights to inspect files. 2Notwithstanding the above, if there is good reason to suspect scientific misconduct has been committed, those affected by the allegations may be reported to the President and the relevant committees at FAU in order to avoid any damage to FAU.

(2) ¹In the event of a specific reason to suspect scientific misconduct, the person making the allegation (whistleblower) shall not incur any disadvantages for their own academic and professional progression. ²The affected academic institution is responsible for ensuring that this is the case.

(3) The formal investigation pursuant to Section 16 shall be governed by the provisions of the Bavarian Administrative Procedures Act (BayVwVfG) and Section 30 of the University Constitution, unless stipulated otherwise in these regulations.

(4) The provisions of the Bavarian Administrative Procedures Act governing possible partiality shall apply to the ombudsperson and their deputy and the members of the committee for the investigation of scientific misconduct.

Section 14 Ombudsman proceedings

(1) ¹The ombudsman proceedings are aimed at settling disputes informally and objectively. ²The ombudsperson shall advise those who report a specific instance of suspected scientific misconduct in confidence and follow up on specific leads brought to their attention, possibly by third parties.

(2) In the first instance, the ombudsperson shall check whether it is plausible that any allegations of scientific misconduct supported by sufficient evidence are accurate, specific and significant, as well as looking into any reasons the person reporting the scientific misconduct may have to report the misconduct other than purely scientific reasons.

(3) Whilst protecting the interests of the affected parties, the ombudsperson shall be entitled to gather all information and statements required in order to clarify the issue and to approach experts from the relevant subject area if so required in any individual case.

(4) ¹After checking all information and statements submitted, the ombudsperson may give their recommendation for resolving the conflict. ²This shall be put in writing as a written agreement including a deadline for implementation. ³This shall also apply if initial inquiries uncover a suspected incident of scientific misconduct within the meaning of Section 8 of these regulations which can be resolved by a recommendation given by the ombudsperson. ⁴In the event that the agreement is not implemented and in all other instances when there is due reason to suspect scientific misconduct, the ombudsperson shall call on the committee for the investigation of scientific misconduct to take action.

Section 15 Initial investigation

(1) If the ombudsperson determines that there are reasonable grounds to suspect scientific misconduct, an initial investigation shall be launched by the committee upon request.

(2) ¹The committee shall give the person accused of scientific misconduct the opportunity to submit a written statement. ²The statement shall be submitted within a period of two weeks. The deadline may be extended if necessary. ³The name of the person making the allegation shall not be disclosed during this phase without their consent.

(3) ¹After receiving the statement from the accused or after the deadline has expired, the committee shall come to a decision within a period of four weeks about whether the preliminary investigation should be closed as there are no specific grounds to suspect scientific misconduct or if allegations of misconduct prove to have been entirely unfounded. ²If the failure to comply with good scientific practice was unintentional, a written reprimand may be issued and the preliminary investigation closed. ³A formal investigation shall be initiated in all other instances where there is specific reason to suspect scientific misconduct. ⁴The affected person, the person making the allegation and the President shall be informed in writing of the decision and the reasons for it.

Section 16 Formal investigation

(1) ¹The academic accused of scientific misconduct shall be given another opportunity to state their version of the facts in an appropriate manner once the formal investigation has been started. ²The statement shall be submitted within a period of two weeks. The deadline may be extended if necessary. ³The academic accused of scientific misconduct shall be given the opportunity to have an oral hearing, if so requested. ⁴They shall be entitled to seek assistance from a person they trust. ⁵The committee may prevent anyone accused of scientific misconduct from providing assistance.

(2) ¹The committee shall conduct an oral hearing not open to the public. ²It shall freely appraise all evidence to determine whether or not scientific misconduct has been committed. ³It may extend the ongoing formal investigation if further allegations of scientific misconduct are raised against the academic in question. ⁴The committee may at its own discretion consult reviewers specialising in the subject area which is to be investigated and/or experts in dealing with cases of scientific misconduct, either including them in the committee in an advisory capacity or asking them to share their expert knowledge. ⁵In addition, the committee may invite a research associate who holds a doctoral degree and has experience in research to attend their consultations.

(3) ¹The committee shall come to a decision within a period of six months. ²If the committee believes that scientific misconduct has indeed taken place, they shall submit the draft report to the affected person and shall give them the opportunity to submit a written statement within a period of two weeks. ³If new facts are submitted which are of considerable relevance to the decision, the committee shall examine those parts of the report which are affected.

(4) ¹If the committee does not believe that there is proof of scientific misconduct, the case shall be closed. ²The decision to close the case may not be appealed. ³The President shall be informed in writing of the decision to close the case.

(5) ¹If the committee believes that scientific misconduct has been proven, it shall submit a report to the President stating the essential reasons and recommending how to proceed. ²The President shall examine the recommendations made by the committee, submit the case to the relevant university committees or institutions and shall take steps to ensure that the appropriate measures are taken (see Appendix: Possible consequences of scientific misconduct). ³The Executive Board of the University shall decide whether all or part of the report and recommendations should be published.

(6) ¹The relevant committees of the faculties, in particular the doctoral affairs committees, shall come to a decision once the formal investigation by the committee for the investigation of scientific misconduct has been completed. Section 23 RPromO shall not be affected. ²The relevant committees shall consult the committee for the investigation of scientific misconduct or individual members thereof when coming to a decision.

(7) ¹The files relating to the preliminary investigation and the formal investigation shall be kept by FAU for 30 years after the case has been closed. ²The files may only be accessed in this period by members of the committee for the investigation of scientific misconduct unless other rights of access are stipulated by law. ³The committee shall make a unanimous decision concerning the transfer of information.

Part VI: Final provisions

Section 17 Legal validity and transitory provisions

(1) ¹These regulations shall come into effect on the day after their publication. ²At the same time, the FAU Guidelines on Good Scientific Practice dated 13 May 2002 shall cease to apply.

(2) The members of the standing committee for the investigation of alleged scientific misconduct and the ombudsperson and their deputy appointed in accordance with the guidelines on good scientific practice in office at the time these regulations come into effect shall remain in office until the end of their regular term of office.

(3) Any investigations into allegations of scientific misconduct not yet completed at the time these regulations come into effect shall be conducted in accordance with the terms of these regulations.

Appendix: Possible consequences of scientific misconduct

The following is a non-exhaustive overview of possible consequences or penalties incurred for scientific misconduct. The following may be considered:

1. Disciplinary action under employment law
 - a) For civil servants: disciplinary measures
 - b) For employees: warning, termination with notice, termination without notice, rescinding the employment contract

2. Academic consequences.

Academic consequences such as revoking academic titles may only be enforced by FAU if the title was awarded to the accused by FAU. If the academic title was awarded by another university, this university shall be informed of the scientific misconduct if it had any bearing on the awarding of an academic qualification. In particular, a person guilty of scientific misconduct may have their doctoral title revoked pursuant to Section 23 RPromO or lose their authorisation to teach.

3. Possible consequences under civil law:

- a) A ban on entering the premises may be issued
- b) An action may be brought to recover property, for example any scientific samples or the like which has been taken
- c) Claims for removal and injunction based on copyright law, personality rights, patent law or competition law
- d) Repayment claims, e.g. for scholarships, third party funding or the like
- e) Claims for compensation for any damages suffered by FAU or third parties relating to personal injury, material damage or the like

4. Possible consequences under criminal law:

Consequences under criminal law shall always be considered when it is suspected that scientific misconduct simultaneously constitutes a crime under the German Penal Code (Strafgesetzbuch, StGB) or pursuant to other criminal provisions or administrative offences. The President shall be responsible for forwarding the case to the investigative authorities.

5. Withdrawing academic publications:

Academic publications containing errors as a result of scientific misconduct shall be withdrawn if they have not yet been published and corrected if they have been published (withdrawal or correction/erratum). If applicable, cooperation partners shall be informed in a suitable manner. As a rule, the author and publisher involved are obliged to ensure that the above steps are taken. If they fail to do so, the President shall initiate suitable measures available to him or her. The President shall inform other affected research, funding or academic institutions or organisations in the event of scientific misconduct.

Please note that ONLY the German version of this document is legally binding. The English translation only serves the purpose of providing information on the contents of the corresponding German text.

Professional associations may also be informed in particularly justified cases. The President may be obliged to inform affected third parties and the public if necessary either in the general public interest or in order to protect third parties, safeguard trust in academic integrity and prevent subsequent damage.

Published according to the resolution of the University Senate on 27 September 2017 and the President's authorisation on 10 October 2017.

Erlangen, 10 October 2017

Prof. Dr.-Ing. Joachim Hornegger
President

These regulations were established on 10 October 2017 at Friedrich-Alexander-Universität Erlangen-Nürnberg and displayed for public inspection on 10 October 2017. The date of publication is 10 October 2017.