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Code of Conduct for Safeguarding Good Academic Practice and Procedures in Cases of Academic Misconduct at Technische Universität München

This Code of Conduct is based on the Memorandum for Safeguarding Good Scientific Practice of the DFG (1998) and its supplements (2013). The position paper “Empfehlungen zur wissenschaftlichen Integrität” (Recommendations on scientific integrity, available in German only) presented in 2015 by the German Council of Science and Humanities accompanies this memorandum.

1. Principles of Good Academic Practice

- (1) Scientists and scholars working at the Technische Universität München are obligated to
 - perform their work according to professional standards (*lege artis*),
 - document results,
 - critically assess their results,
 - observe strict honesty regarding the contributions of partners, competitors, and predecessors
 - avoid and prevent academic misconduct,
 - and to observe the principles set out below.
- (2) In addition to measures for determining and disciplining academic misconduct, measures should be introduced and/or enforced to prevent academic misconduct. As an institution designed to foster and develop the arts and sciences through research, teaching, and study, the university is responsible for ensuring such measures are in place.
- (3) Working group leaders are to serve as academic role models by observing and embodying the principles of good academic practice laid out here. In the interest of their professional development, young scientists and students must be vigilant with regard to any misconduct in their academic environment.
- (4) The departments and schools are called upon to adequately address the issue of academic misconduct within the scope of their instruction, communicating the TUM Code of Good Academic Conduct to young scientists and students.

2. Collaboration and Management within Academic Units

The heads of academic units (collaborative research centers, research centers, research training groups, research groups, and other working groups) are responsible for ensuring that suitable and

appropriate organizational measures are in place, that the responsibilities of management, supervision, conflict settlement, and quality assurance within the academic unit are clearly defined and that its members are able to fulfill these responsibilities.

3. Supervision and Mentoring of Young Scientists

- (1) From the very beginning, students should acquire, and supervisors should convey, not only technical skills, but also ethical standards in scholarly work, in the responsible application of research results, and in collaborative work with other researchers. Students and young scientists are entitled to the continual academic mentoring and support of advisors and heads of academic units; they are in turn obligated to perform their work responsibly and contribute to a collegial working environment. Heads of academic units bear the responsibility of ensuring the adequate supervision and mentoring of students, doctoral candidates and postdocs.
- (2) The advising of doctoral candidates by supervisors is governed by a supervision agreement to be signed by both parties, which is also the application for the entry into the doctoral list and for membership of TUM Graduate School. The agreement structures the doctoral project and includes a work and time schedule, objectives for further qualification, and delineates the rights and obligations of the signing parties and is intended to ensure regular supervisory meetings and the candidates' integration into the academic community. Supervisors support their candidates in obtaining suitable funding for the doctoral program, in the structuring the doctoral process, and in building an academic network as well as exploring career opportunities. Supervisors should not take on a greater number of doctoral candidates than they can adequately supervise.
- (3) The following conditions apply:
 - Before commencing work on their academic projects (bachelor's thesis, master's thesis, etc.), students are to have read and signed this Code of Conduct.
 - This Code of Conduct will be made available to all doctoral candidates and their supervisors by the TUM Graduate School and are an integral part of the compulsory program for all doctoral candidates.
 - This Code of Conduct is provided to all academic personnel when signing their employment contracts.

4. Performance and Assessment Criteria

Originality and quality as criteria for assessing performance in examinations, the awarding of degrees, employment, promotion, recruitment, and funding always take precedence over quantity (especially with regard to publications). All performance and assessment criteria should be based on this principle.

5. Protection and Storage of Primary Data

Compressed primary data serving as basis for publications are to be securely stored on durable storage media for a term of ten years within the academic unit where they originated. Where possible, preparations and samples used in developing primary data should be stored for the same time period. In this context, reference is made to the recommendations of the Deutsche Forschungsgemeinschaft regarding the storage of primary data.

6. Scholarly Publications

- (1) Subject to various criteria required by specific disciplines, the following guidelines are to be observed in the publication of scholarly work:

- (a) The term "original work" is limited to the first-time publication of new scholarly results. Accordingly, multiple publications of the same scholarly results, with the exception of announcement of preliminary results prior to publication, must acknowledge the first-time publication. "Self plagiarism" means that earlier own work or parts of it are not marked as such (quoted); this is particularly relevant to work which has already been used as part of an examination.
 - (b) Scholarly research must be verifiable. Therefore the publication of results must contain an exact description of methods and outcomes comprehensible to a person skilled in the art.
 - (c) Findings which either support or challenge the hypothesis of the author must be communicated in equal measure.
 - (d) Findings and ideas of other researchers as well as relevant publications of other authors are to be cited faithfully and completely.
 - (e) Investigations should not be fragmented to create the appearance of multiple publications, as this constitutes academic misconduct.
- (2) If multiple authors have contributed to research or in writing a scientific report, those persons are to be named as co-authors who played a substantial role in
- (a) defining the problem, drawing up research plans, conducting research, evaluating or interpreting research outcomes, and
 - (b) drafting or critical review and revision of manuscript content. Co-authorship does not apply to persons who merely technically contribute to the collection of data, or who merely provide funding, or who merely serve as the head of the department or institution in which the research is carried out. Likewise persons who merely read the manuscript without contributing to its content are not considered co-authors. In addition, the following requirements apply:
 - in case of reports drawn up by several working groups, the contributions of individual groups should be identified as clearly as possible;
 - the release of a manuscript for publication should be confirmed by all co-authors and the contributions of individuals or working groups should be documented;
 - written consent must be obtained if the manuscript contains explicit reference to unpublished findings of other persons or institutions, notwithstanding other specific conventions established in the discipline.
- (3) Acknowledgement of co-authorship implies shared responsibility for compliance of the publication with academic standards, in particular to those sections of the manuscript contributed by a co-author. Co-authors are thus responsible for the accuracy of their own contributions as well as for the compliance of the publication as a whole with academic standards.
- (4) If scholars are named as (co-)authors of a publication without their consent and do not wish to give their consent at a later date, they are expected to expressly voice their objections to the first or last named author (who is, as a rule, the main author) and/or the journal. For further reference, please see the recommendations of the DFG on authorship.

7. Academic Misconduct

- (1) Academic misconduct has occurred when a scholar, deliberately or through gross negligence, makes false statements, infringes upon intellectual property rights or the research activities of others in any way, including, but not limited to:
 - (a) False Statements including

- (i) fabrication of data;
- (ii) falsification of data and sources, such as
 - failure to acknowledge relevant sources, references, or literature;
 - selective use or ignoring of undesired outcomes without disclosure;
 - manipulation of sources, representations, illustrations, diagrams, etc.;
- (iii) false statements in letters of application or funding applications (such as incorrect information provided on the publisher or pending publications);
- (iv) false statements about the scholarly achievements of applicants to a selection committee.

(b) Infringement of Intellectual Property Rights

with regard to the copyrighted work or significant scholarly findings, hypotheses, teaching or research methods of others through

- (i) unauthorized use or claims of authorship (plagiarism);
- (ii) exploitation, particularly of unpublished research methods and ideas, especially in the role of reviewer, referee, expert, assessor, etc. (intellectual theft);
- (iii) claiming or wrongfully accepting academic authorship or co-authorship;
- (iv) tampering with content;
- (v) unauthorized publication or making available to third parties of works, findings, hypotheses, educational contents, or research methods not yet published;
- (vi) claiming another person's (co-)authorship without consent.

(c) Compromising the Research Activities of Others by

- (i) Sabotaging the research of others, for example, by
 - damaging, destroying, or manipulating experiment designs, equipment, documents, hardware, software, chemicals or other materials required by others to carry out an experiment;
 - malicious misplacing or stealing of books, archived materials, manuscripts, data sets, laboratory or experiment protocols;
 - willfully tampering with media, such as books, documents or other data and records of scientific relevance in order to render them useless.
- (ii) Removing primary data, to the extent that this violates statutory regulations or the standard principles of scientific practice recognized by a particular discipline.
- (iii) Termination of joint research activities without reasonable cause or the prevention of the publication of results as co-author, on whose approval the publication relies, without urgent reason (obstructing consent refusal). Publication refusals must be justified by verifiable criticism of data, methods or measurement results.

(d) False Accusations

Frivolous accusations of scientific misconduct, in particular, willfully making false accusations, is also considered scientific misconduct. Claims of scientific misconduct brought against other scientists are to be made in good faith; that is, claims are to be adequately researched

and the facts of the case thoroughly substantiated.

- (2) Academic misconduct also occurs when conduct gives rise to the person's partial responsibility for the academic misconduct of others, in particular through
 - (a) active involvement in other persons' misconduct,
 - (b) awareness of other persons' falsifications,
 - (c) co-authorship of falsified publications or
 - (d) gross negligence of supervisory obligations.

8. Investigation of Academic Misconduct

- (1) Technische Universität München will review every serious indication of academic misconduct of its current and former members, provided that the work or performance in question was carried out or rendered at Technische Universität München.
- (2) The procedure for the investigation of academic misconduct delineated in this code of conduct does not replace or prejudice any other legal or statutory proceedings (e.g. academic procedures, legal proceedings relating to employment or civil service, civil or criminal proceedings). If necessary, these will be instituted by the entities responsible. The process of uncovering scientific misconduct detailed in this directive aims to create the possibility to solve occurring conflicts at a purely technical level and in due consideration of the specific peculiarities of the field. To this end, all persons involved should have the opportunity, besides the procedure referred to in clause 1, to suggest an approach on the technical level without recourse to legal aid. The involvement of a lawyer is reserved by law or statutory law regulated procedure referred to in sentence 1 above.

9. Ombudsperson

- (1) At the senate's proposal, the president will appoint an ombudsperson and a proxy from among the professorial and non-professorial academic staff. Their term in office will be three years, with possible reappointment for up to 9 years of mandate maximum. Where possible the ombudsperson should be elected from among the TUM Emeriti of Excellence.
- (2) Vice presidents and deans may not serve as ombudspersons. The regulations of the
- (3) Bavarian Administrative Procedures Act concerning the exclusion of persons due to personal
- (4) involvement (Art. 20 and 21 of the Bayerisches Verwaltungsverfahrensgesetz) shall apply to ombudspersons.
- (5) The names of the currently serving ombudspersons and this code of conduct will be made available to the public on the internet.
- (6) The ombud office provides administrative assistance to appointed ombudspersons and archives case records and files.

10. Contacting the Ombudsperson

- (1) Anybody may request the assistance of the ombudsperson or the ombudsperson's proxy to report a suspicion of academic misconduct at the Technische Universität München (informant, whistleblower). This also applies to persons who are suspected of academic misconduct. Information on alleged or suspected academic misconduct is to be provided in writing; where information is provided orally, the ombudsperson or his or her proxy has to prepare a written report on the alleged or suspected misconduct including substantiating evidence. Anonymous complaints will not be investigated.

- (2) The ombudsperson and his or her proxy are bound to secrecy unless persons other than those directly affected are already aware of the suspected misconduct or additional persons have been involved with the affected person's consent; this also applies to the informant's identity. Without the consent of the person seeking assistance, the ombudsperson or proxy may not disclose the provided information unless the substantiated suspicion relates to such severe academic misconduct, which if not investigated would lead to major damage for the Technische Universität München, its members or third parties. In such cases, the ombudsperson or proxy will inform the president and the dean of the relevant TUM school or department.
- (3) The ombudsperson works in close collaboration with the other advisory offices of TUM. Conflicts not relating to academic misconduct will, after consultation with the informant, be confidentially forwarded to the appropriate entities of TUM (Employee Council, Board of Arbitration of the TUM Graduate School, Psychosocial Counseling, etc.).

11. Preliminary Investigation

- (1) The ombudsperson or proxy will investigate if and to what extent the allegations are convincing enough to be considered academic misconduct. Insofar as the allegations are not considered convincing, the informant will be given the opportunity to provide specific evidence within a period of four weeks.
- (2) If allegations are not substantiated within the defined period, the ombudsperson or proxy will notify the informant of its decision not to institute formal proceedings, providing the grounds for this decision.
- (3) Where there are substantiated allegations, the ombudsperson or proxy will present the person suspected of misconduct the allegations and provide said person the opportunity to respond to the allegations in a written statement within a period of four weeks. If necessary, the ombudsperson or proxy may request information from other parties involved. If the suspected person's statement dispels the suspicions, the ombudsperson may discontinue the preliminary investigation, stating the grounds for this decision.
- (4) The ombudsperson will endeavor at all times to mediate between the parties involved. Where the mediation efforts between the parties involved lead to an amicable resolution of the allegations, the investigation will be discontinued and archived in the ombud office.
- (5) If the preliminary investigation is not discontinued as set out in (3) or (4), the ombudsperson will set up an ad hoc investigation committee no later than two weeks after receipt of the affected person's statement or lapse of the deadline for submitting a statement.
- (6) In well-founded, exceptional cases the ombudsperson may extend the deadlines.

12. Investigation Committee

- (1) The investigation committee will consist of:
 - two professors appointed by the dean of the department or school involved in each individual case;
 - two additional professors appointed by the senate;
 - a representative of the non-professorial academic staff appointed by the research staff assembly;
 - the ombudsperson;
 - the ombudsperson's proxy;

The confidentiality obligations set out in 10 (2) of this Code of Conduct shall apply to the members of the investigation committee accordingly.

- (2) Members of the investigation committee are required to attend meetings of the investigation committee in person. Members may not send a proxy to these meetings; for a quorum, at least five members must be present. Based on the facts and circumstances investigated in the individual case, each member of the committee will reach a decision at his or her discretion and conviction; decisions require a simple majority.
- (3) The investigation committee will be chaired by the ombudsperson or proxy.
- (4) Meetings of the investigation committee are closed to the public.
- (5) The investigation committee has the right to take all steps necessary or expedient to establish the facts and circumstances of the case. For this purpose, the committee may obtain all necessary information, opinions, and representations and, in each individual case, call upon the equal opportunity officer(s) and/or experts of the discipline in question, advising all parties involved of the obligation to keep the matter under investigation confidential. Both the person affected and the informant shall be given the opportunity to present an oral statement. The affected person is to be informed of the incriminating facts and evidence.
- (6) Where the identity of the informant is not known to the person affected, the informant's identity must be disclosed if this seems necessary for the affected person to defend himself or herself appropriately, in particular where the informant's credibility is of major importance for the determination of academic misconduct.
- (7) The investigation committee will make a decision within a period of six months unless the complexity and difficulty of the facts and circumstances justify a longer period.
- (8) The files on the investigation must be kept in the ombud office for a period of 30 years.
- (9) If the investigation is discontinued the informant, if he or she does not agree with the discontinuation, may notify the ombudsperson or proxy within a period of two weeks. In such a case the commission will reexamine its decision. The reexamination and agreement among commission members does not require a separate meeting, but may be carried out by written circulation procedure.

13. Investigation Result

- (1) The investigation committee will prepare a final report on the result of the investigation and, together with a proposal on how to proceed and any sanctions and/or measures recommended, submit it to the president for decision.
- (2) The president will inform the ombudsperson of his or her decision and take the necessary steps to implement the measures. The ombudsperson will notify the informant of the president's decision.
- (3) Third parties concerned and/or the general public are to be informed of the investigation result in appropriate manner if this seems expedient to protect third parties, maintain trust in academic honesty, restore their academic reputation, avoid consequential damage or otherwise benefit public interest.
- (4) The appendix to this code of conduct contains examples of relevant decisions of the president.

14. Entry into Force

This latest amended code of conduct was decided by the TUM Board of Management on 15 July 2015 and enter into full force and effect after the signature by the president.

Wolfgang A. Herrmann
President

Munich, 15 July 2015

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Appendix

Examples of potential decisions and sanctions relating to academic misconduct

Where the investigation committee has formally determined academic misconduct, the president may consider a range of decisions, varying in type and scope. As each case is unique and the degree of misconduct in question of significance for the decision, there can be no uniform guideline for the repercussions, which will be determined by the particulars of each case. Depending on the individual factors of each case, the following measures, including but not limited to the following, may be taken:

- (1) Actions under employment law, in particular,
 - official warning
 - termination of employment with immediate effect
 - termination of employment with period of notification
 - termination of contract;
- (2) Actions under the German Civil Service Law, in particular, disciplinary measures;
- (3) Actions within the academic community, in particular,
 - revocation of academic titles or *venia legendi*
 - notification of misconduct to other academic institutions and associations
 - request for withdrawal of academic publications;
 - In case of scientific misconduct as in clause 7 para. (1) lit. 8 (c) (iii) 2. Alt. the publication can be permitted to the other scientist if the obstruction is established to the satisfaction of the ompudsperson. The facts must be disclosed in the publication and in the publication permission.
- (4) Actions under civil law, in particular,
 - barring from premises
 - request the affected person to surrender any unlawfully obtained scientific material
 - request for abatement or removal and/or request to cease and desist under German copyright law, rights of personality, patent law, and law of competition
 - request for restitution of, for example, grants, third-party funds, etc.
 - claims for damages asserted by the university or third parties in the event of personal injury, damage to property, etc.;
- (5) Actions under Criminal Law, in particular, bringing charges or requesting prosecution in the event of suspicion that an incident of academic misconduct may constitute an offence under the German Criminal Code (StGB) or other punishable offence or misdemeanor, in particular,
 - copyright infringement
 - forgery of documents (including forgery of technical reports)

- property damage (including the manipulation of data)
- theft or other dishonesty offence (such as stealing, fraudulently obtaining
- funding, misappropriation)
- infringement of private sphere or confidentiality by, for example, data
- phishing or using confidential data of others
- damage to life or health of, for example, subjects in medical tests as a
- consequence of false data).

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