



# **Rules of Procedure**

## for Dealing with Scientific Misconduct

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# Rules of Procedure for Dealing with Scientific Misconduct

In the version adopted by the Joint Committee dated 22 March 2024, which entered into force on 1<sup>st</sup> May 2024<sup>1</sup>

*[Translator's note: This is the English translation of an original German legal text. In the event of a discrepancy, the German text is binding.]*

## Preamble

<sup>1</sup>Observance of the rules of good research practice is the basis of trustworthy research. <sup>2</sup>The Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) is committed to strengthening research integrity in Germany. <sup>3</sup>For this reason, the DFG sets forth rules of procedure for dealing with cases of suspected scientific misconduct within its area of responsibility. <sup>4</sup>In doing so, the DFG also assumes accountability for the funds entrusted to it.

## Part I: Scope of application

### § 1 Scope of application

(1) <sup>1</sup>The Rules of Procedure for Dealing with Scientific Misconduct (VerfOWF) are applicable if the suspicion of scientific misconduct relates to the statutory mandate of the DFG. <sup>2</sup>This is the case if the person suspected of scientific misconduct (the respondent) falls under (2) and the alleged misconduct concerns them in their role in connection with the DFG's funding activities.

(2) These Rules of Procedure apply if the respondent is one of the following with regard to the allegation:

1. A grant applicant to the DFG
2. A grant recipient funded by the DFG,
3. Individuals with a high level of scientific responsibility in connection with funding proposals submitted by higher education institutions or non-university research institutions,
4. individuals reviewing a proposal for the DFG or
5. A member of a DFG committee or a committee supported by the DFG in administering funding instruments who participates in advisory, review, evaluation or decision-making procedures.

(3) If an individual pursuant to (2) nos. 1-3 commits scientific misconduct pursuant to § 2 (1) in a publication, this is also DFG-related if the publication is named as a piece of preliminary work in a DFG proposal in which the person is involved with a high level of scientific responsibility.

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<sup>1</sup> Adopted by the Joint Committee of the DFG on 26 October 2001, amended by the resolutions of the Joint Committee on 5 July 2011, 30 June 2015, 3 July 2018 and 2 July 2019, last amended and revised on 22 March 2024.

## Part II: Definition of scientific misconduct

### § 2 Scientific misconduct

(1) <sup>1</sup>An individual pursuant to § 1 (2) nos. 1-3 commits scientific misconduct if they do any of the following in particular, either intentionally or with gross negligence:

1. make misrepresentations (§ 3),
2. appropriate others' research achievements without justification (§ 4),
3. interfere with others' research (§ 5),
4. participate in the scientific misconduct of others by way of co-authorship (§ 6) or
5. neglect their supervisory duties (§ 7).

<sup>2</sup>Anyone who intentionally participates in the misconduct of others is also guilty of scientific misconduct (§ 8).

(2) A person pursuant to § 1 (2) nos. 4 and 5 commits scientific misconduct if they do any of the following, either intentionally or with gross negligence:

1. breach confidentiality (§ 9),
2. fail to disclose circumstances that give rise to the appearance of conflict of interest (§ 10) or
3. inadmissibly give unfair preferential treatment to others (§ 11).

### § 3 Misrepresentation

A misrepresentation is:

1. a fabrication of research-related data or results,
2. a falsification of research-related data or results, in particular by
  - a) suppressing or eliminating data or results obtained in the course of the research process without disclosing this suppression or elimination,
  - b) undertaking an undisclosed modification of a representation or illustration,
2. presenting an image and a statement corresponding to it in an incongruous manner,
3. making inaccurate statements in a grant proposal or within the scope of the reporting obligation,
4. claiming another person's authorship or co-authorship without that person's consent, unless consent was refused without sufficient research-related reason.

#### **§ 4 Inadmissible appropriation of others' research achievements**

A person is deemed to have inadmissibly appropriated others' research achievements if they:

1. use research content of which they are not the sole originator without sufficient reference to the source (plagiarism),
2. use research approaches, results or ideas of which they are not the sole originator without authorisation for their own purposes or for the purposes of third parties (theft of ideas),
3. disclose research data, approaches, ideas, hypotheses or theories to third parties without authorisation, unless the subject of the disclosure has already been duly published,
4. assume or accept authorship or co-authorship of an academic publication without justification, even though they did not make any genuine, identifiable contribution to the research content of the publication,
5. publish research data, approaches, ideas, hypotheses or theories without authorisation, if the subject matter has not yet been published by the authorised persons or with the latter's consent.

#### **§ 5 Interference with the research activities of others**

A person interferes with the activities of others in a way that is specifically relevant to research if they:

1. make research activity impossible for another person or significantly impede that person in their research by damaging, destroying or manipulating experimental set-ups, devices, documents, hardware, software, chemicals or other items that are needed for the purpose of the research (sabotage);
2. falsify research data or documents or remove these without authorisation or
3. falsify the documentation of research data or remove such documentation without authorisation.

#### **§ 6 Co-authorship**

<sup>1</sup>A person pursuant to § 1 (2) nos. 1-3 commits scientific misconduct if they are the co-author of a publication that contains misrepresentations within the meaning of § 3 or unjustifiably appropriated research achievements within the meaning of § 4. <sup>2</sup>The misconduct of third parties pursuant to §§ 3 and 4 must have been intentional or grossly negligent, as must the person's own co-authorship.

#### **§ 7 Neglect of supervisory duties**

A person pursuant to Section 1 (2) nos. 1-3 who has a duty of supervision commits scientific misconduct if another person objectively commits an offence pursuant to Sections 3 to 6, the person with the supervisory duty intentionally or grossly negligently fails to carry out reasonable supervision as required, and the misconduct of the other person would have been prevented or at least made considerably more difficult had the reasonable supervision been carried out as required.

## **§ 8 Participation in the misconduct of others**

Scientific misconduct is deemed to have been committed by anyone who intentionally participates in the deliberate misconduct of another person pursuant to §§ 3 to 7, either by instigation or by aiding and abetting.

## **§ 9 Breach of confidentiality**

A person pursuant to § 1 (2) nos. 4 and 5 breaches confidentiality if they

1. make use of research data, theories or findings that are not already unpublished and of which they have gained knowledge in connection with their activities as per § 1 (2) nos. 4 or 5 for their own research purposes without authorisation,
2. in the course of their activities as per § 1 (2) nos. 4 and 5, take research proposals or the data, theories or findings contained in them with third parties without authorisation in breach of the confidentiality of the review procedure, or
3. share with third parties, without authorisation, confidential written or verbal information obtained from DFG committees or committees supported by the DFG in administering a funding instrument, where such information has been obtained in the course of the person's activities as per § 1 (2) nos. 4 or 5.

## **§ 10 Failure to disclose circumstances that may give rise to the appearance of a conflict of interest**

A person pursuant to § 1 (2) nos. 4 and 5 commits scientific misconduct if they fail to promptly disclose facts or circumstances that may give rise to the appearance of a conflict of interest as per the relevant DFG guidelines for the funding instruments for which the DFG is responsible.

## **§ 11 Unfair preferential treatment**

A person pursuant to § 1 (2) nos. 4 and 5 also commits scientific misconduct if, against their better judgement, they fail to disclose facts which reveal scientific misconduct on the part of another person pursuant to §§ 3 to 7 with the intention of gaining an advantage for themselves or for the other person.

## **§ 12 Statute of limitations**

<sup>1</sup>No preliminary inquiry shall be initiated into a suspected case of scientific misconduct that occurred ten years or more before the day on which it is reported to the DFG Head Office, unless such misconduct is potentially of a very severe nature. <sup>2</sup>The limitation period is interrupted if an investigation is conducted at a research institution in relation to the suspicion of scientific misconduct.

## Part III: Procedure in cases of suspected scientific misconduct

### § 13 Procedural principles

(1) <sup>1</sup>The procedure in cases of suspected scientific misconduct is subject to the principles of due process of law. <sup>2</sup>In particular, the principles of fairness and confidentiality are upheld. <sup>3</sup>The procedure expressly presumes the innocence of the respondent and protects the complainant.

(2) The DFG Head Office shall endeavour to ensure that the individual phases of the procedure are carried out within a reasonable period of time and that the procedure can be completed as quickly as possible.

### § 14 Start of the procedure and preliminary inquiry

(1) If employees of the DFG Head Office become aware of specific suspicions of scientific misconduct in connection with their official duties, they immediately inform the Research Integrity Team, which is responsible for conducting a preliminary inquiry into any suspected instance of scientific misconduct.

(2) <sup>1</sup>In the case of a sufficiently substantiated suspicion of scientific misconduct (§ 1 to 12), generally submitted in writing and also if submitted anonymously, the Research Integrity Team initiates a preliminary inquiry. <sup>2</sup>Otherwise, a preliminary inquiry is not initiated; this is communicated to the complainant.

(3) <sup>1</sup>In the course of the preliminary inquiry, the person suspected of misconduct must be confronted with the incriminating facts and given the opportunity to submit a written statement in response to all the allegations raised. <sup>2</sup>The statement must generally be submitted within four weeks. <sup>3</sup>This period may be extended depending on the circumstances of the individual case.

(4) The Research Integrity Team may obtain expert statements and opinions at any stage of the procedure.

(5) <sup>1</sup>At this stage of the procedure the identity of the complainant shall not be disclosed to the respondent without the former's consent. <sup>2</sup>The DFG may discontinue the procedure in order to protect the identity of the complainant, providing the alleged misconduct is not severe and the protection of the complainant's identity outweighs the interest in establishing the truth of the allegations.

(6) The DFG's Rules for Avoiding Conflicts of Interest apply accordingly to employees of the DFG Head Office.

### § 15 Discontinuance of the preliminary inquiry

(1) <sup>1</sup>After reviewing the respondent's statement or after the deadline for submission of the statement has expired, the Research Integrity Team shall promptly prepare a decision as to whether the preliminary inquiry can be discontinued or whether it should be referred for formal investigation. <sup>2</sup>The preliminary inquiry may be discontinued due to a lack of reasonable suspicion of scientific misconduct or due to insignificance.

(2) If there is no reasonable suspicion that scientific misconduct occurred, the Research Integrity Team discontinues the procedure.

(3) <sup>1</sup>Discontinuance on the grounds of insignificance may be appropriate in less severe cases of scientific misconduct. <sup>2</sup>In this connection, it may be counted in the respondent's favour if they have contributed significantly to establishing the facts of the scientific misconduct or if they have taken or offered to take measures to remedy, minimise or compensate for the damage caused.

(4) <sup>1</sup>Discontinuance due to insignificance requires the approval of all voting members of the Committee of Inquiry on Allegations of Scientific Misconduct (§ 19). <sup>2</sup>If not all members of the Committee of Inquiry on Allegations of Scientific Misconduct agree, the suspected case is dealt with at a meeting of the Committee.

(5) <sup>1</sup>The complainant shall be notified of the decision to discontinue the procedure due to lack of reasonable suspicion and informed of the main reasons for this decision. <sup>2</sup>If the complainant does not agree with the termination of the preliminary inquiry, they have the right to submit a remonstrance to the DFG Head Office within two weeks. <sup>3</sup>Such a remonstrance may only be submitted if it is based on new facts. <sup>4</sup>The Research Integrity team then reviews its decision.

(6) The decision that concludes the preliminary inquiry shall be communicated to the respondent and the complainant, stating the main reasons.

## **§ 16 Referral for formal investigation**

(1) If the preliminary inquiry cannot be discontinued as per § 15, the case is referred for formal investigation, which is conducted by the Committee of Inquiry on Allegations of Scientific Misconduct.

(2) <sup>1</sup>The complainant and the respondent must be informed of the referral for formal investigation; the respondent should be informed of the reasons for the decision. <sup>2</sup>It should be pointed out to the complainant that the decision is confidential.

(3) <sup>1</sup>The respondent must be given the opportunity to submit a statement in response to all allegations raised. <sup>2</sup>If an allegation does not become the subject of the procedure until after the formal investigation has been initiated, the investigation may be extended to include this allegation.

## **§ 17 Investigations by other institutions**

(1) If the suspicion of scientific misconduct is already being investigated by an ombudsperson or a commission of inquiry, the DFG Head Office may suspend its procedure until such time as the other procedure has been concluded.

(2) Decisions arrived at by other institutions as a result of their procedure for reviewing allegations of scientific misconduct shall not be binding on the DFG's procedure.



## **§ 18 Formal investigation by the Committee of Inquiry on Allegations of Scientific Misconduct**

(1) <sup>1</sup>The body responsible for the formal investigation is the Committee of Inquiry on Allegations of Scientific Misconduct, which is a subcommittee of the DFG's Joint Committee and is made up of eight scientific members. <sup>2</sup>The members represent the academic disciplines of the humanities and social sciences, natural sciences, life sciences and engineering sciences; they should also represent the methodological spectrum of working methods in research. <sup>3</sup>Members are elected by the DFG's Joint Committee for a term of four years. <sup>4</sup>A further term of office is possible. <sup>5</sup>The Committee of Inquiry is convened and chaired by the Secretary General of the DFG. <sup>6</sup>The latter has no voting rights. <sup>7</sup>In the event of concerns regarding a conflict of interest or incapacity, the Secretary General shall be represented by a DFG Head Office department head.

(2) In individual cases, the Committee of Inquiry may consult with persons from the specialised field relating to the scientific facts to be assessed.

(3) The voting members of the Committee of Inquiry have equal voting rights.

(4) The DFG's Guidelines for Avoiding Conflicts of Interests apply accordingly, as do the rules of procedure for the adopting of resolutions by the DFG's statutory bodies ("*Geschäftsordnung zur Beschlussfassung in den Gremien der DFG*").

## **§ 19 Procedure conducted by the Committee of Inquiry on Allegations of Scientific Misconduct**

(1) <sup>1</sup>The meetings of the Committee of Inquiry on Allegations of Scientific Misconduct shall not be public. <sup>2</sup>In cases where the participation of a Committee member would give rise to the appearance of a conflict of interest, that Committee member shall not participate in deliberations on the specific case or in the adoption of a resolution in this regard.

(2) <sup>1</sup>The respondent shall be heard orally at their request; they may be accompanied by a person of their confidence for assistance and support. <sup>2</sup>This also applies to others to be heard in the case. <sup>3</sup>If an allegation is raised for the first time in the procedure before the Committee of Inquiry, the respondent may submit a statement on this at the meeting of the Committee. <sup>4</sup>If this is not possible, the respondent must be given the opportunity to submit a statement before the matter is referred to the Committee.

(3) Any audio or video recording of the deliberations and hearings before the Committee of Inquiry that has not been authorised in advance by the Committee members present shall be inadmissible.

(4) <sup>1</sup>The identity of the complainant is confidential. <sup>2</sup>The complainant's identity is only disclosed in individual cases if there is a legal obligation to do so or if the respondent would otherwise not be able to defend themselves properly because, by way of exception, the identity of the complainant is crucial for the purpose of defence.

(5) The Committee of Inquiry shall examine, based on a free appraisal of the evidence, whether scientific misconduct has occurred and which sanctions pursuant to § 20 should be proposed to the Joint Committee for adoption.

(6) <sup>1</sup>If the Committee of Inquiry finds that scientific misconduct has been proven and that a sanction is to be imposed, the Committee submits the results of its investigation and a

recommendation for action to the DFG's Joint Committee. <sup>2</sup>Otherwise the procedure shall be discontinued. <sup>3</sup>Discontinuance may be due to unproven scientific misconduct or due to insignificance.

(7) <sup>1</sup>There is no right of remonstrance in the event of discontinuance as per (6). <sup>2</sup>The complainant and the respondent shall be informed of the discontinuance and the main reasons for it.

## **§ 20 Determination of scientific misconduct and sanctions**

(1) <sup>1</sup>The Joint Committee may determine scientific misconduct and, depending on the nature and severity of the misconduct determined, decide to impose one or more of the following sanctions based on an overall appraisal of the specific circumstances of the individual case:

1. issuing a written reprimand to the respondent;
2. exclusion from the right to apply for DFG funds for a period of one to eight years. This also means that during this period, the respondent may not be a person with a high level of scientific responsibility (§ 1 (2) no. 3) in connection with funding proposals submitted by higher education institutions or non-university research institutions.
3. ruling out the approval of proposals which have already been submitted to the DFG by the respondent but for which no decision has yet been issued;
4. exclusion from serving as a reviewer for a period of one to eight years;
5. exclusion from serving on the DFG's committees for a period of between one and eight years;
6. denying voting rights and eligibility in elections for DFG committees for a period of between one to eight years;
7. requesting the respondent to correct the incriminated publication, in particular by means of a corrigendum or erratum, or to withdraw the publication completely;
8. terminating the grant contract in full or in part. In this case, the DFG may reclaim funds already spent.
9. requesting the respondent to include a reference to a sanction pursuant to no. 8 in an incriminated publication.

<sup>2</sup>Otherwise the Joint Committee may refer the case back to the Committee of Inquiry for further clarification of the facts.

(2) The period of validity of temporary sanctions shall commence on the date on which the resolution is adopted by the Joint Committee imposing the sanctions.

## **§ 21 Conclusion of the procedure**

(1) <sup>1</sup>The main reasons that led to the discontinuance of the inquiry or the decision of the Joint Committee shall be communicated to the respondent and the complainant. <sup>2</sup>If sanctions are imposed, notification may be issued to the management of the institutions where the respondent is employed or where they were employed at the time the misconduct occurred. <sup>3</sup>The same applies to other persons or organisations that have a legitimate interest in being informed of the decision.

(2) The decision of the Joint Committee marks the end of the DFG procedure in cases of suspected scientific misconduct.

(3) <sup>1</sup>If the Joint Committee imposes one or more sanctions, the decision shall be published.

<sup>2</sup>The identity of the respondent may only be disclosed if, in view of the circumstances of the individual case, public interest in this information outweighs the need to protect the identity of the respondent.

## **§ 22 Time limits**

The provisions of the German Civil Code (*Bürgerliches Gesetzbuch*, BGB) as amended shall apply accordingly to the calculation of time limits.



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