

University of Tübingen rules of procedure for dealing with academic misconduct (new version)

In accordance with §§ 3 (5), 8 (5) in connection with §19 (1) sentence 2, no. 10 of the law governing institutions of higher education, LHG of 1 January 2005 (GBl. p. 1), in the version published 1 April 2014 (GBl. p. 99), most recently amended by article 8 of the law dated 7 March 2023 (GBl. p. 26, 43), the University of Tübingen Senate on 15 June 2023 passed these rules of procedure for dealing with academic misconduct.

Preamble

One of the most important tasks of the University of Tübingen is the cultivation, continuing development and communication of the disciplines that pursue the goal of gaining knowledge and establishing the truth. Inherent in the process of the academic work associated with this are

- experimental and intellectual conscientiousness
- unconditional honesty in recognizing the achievements of others
- unlimited honesty towards oneself and others
- long-term documentation of original data
- verifiability and reproducibility of academic results
- avoidance of academic misconduct

Researchers, students and all other members of the University of Tübingen are fully committed to these academic ethics, which apply equally to all University disciplines. Adherence to these principles of good academic practice requires a set of rules, constant promotion of their knowledge and application by the members of the University, and appropriate organization of all University institutions with a clear assignment of responsibility at all organizational levels. The Senate defines suitable measures for the prevention and avoidance of academic misconduct (Part I). In the event of a breach of these regulations, the Senate defines forms of dealing with academic misconduct (Parts II and III).

The University of Tübingen President's Office and Senate undertake to create the appropriate bodies, personnel structures and other necessary conditions to ensure good academic practice and to continuously develop them in line with the gain in knowledge.

Part I: Academic misconduct: Definition, prevention and avoidance

§ 1

(1) Academic misconduct is behavior in an academic context that violates legal provisions or written or unwritten rules that are generally considered to be indispensable in a particular academic subject or discipline.

(2) The following in particular constitute academic misconduct:

1. Misrepresentation by
 - a) the invention of data,
 - b) the falsification of data and sources (e.g. by suppressing relevant sources, evidence or texts, manipulation of sources, representations or illustrations, selection and rejection of undesired results without disclosure),
 - c) incorrect information in a letter of application or an application for funding (including incorrect information regarding any publication organ or publications in print),
 - d) incorrect information on the academic performance of applicants in selection or review committees;

2. infringement of intellectual property in relation to a copyrighted work created by another person or essential academic findings, hypotheses, doctrines or research approaches originating with others by
 - a) unauthorized exploitation under presumption of authorship (plagiarism),
 - b) exploitation of research approaches and ideas, in particular as a reviewer (theft of ideas),
 - c) assumption of academic authorship or co-authorship without having oneself made an academic contribution,
 - d) falsification of content,
 - e) unauthorized publication or unauthorized making available to third parties as long as the work, finding, hypothesis, teaching content or research approach has not yet been published,
 - f) claiming another person's (co-)authorship without her/his consent,
 - g) arbitrarily delaying the publication of an academic work, in particular as its editor, reviewer or co-author;

3. impairing the research activities of others by
 - a) sabotaging the research activities of others, e.g. by damaging, destroying or manipulating experimental set-ups, equipment, documents, hardware, software, chemicals or other items that another person needs to carry out an experiment,
 - b) fraudulent misappropriation or theft of books, archival materials, manuscripts, data,
 - c) intentional rendering unusable of academically relevant data carriers,
 - d) unauthorized destruction or unauthorized disclosure of research material,
 - e) disposal of primary data, insofar as this violates legal provisions or recognized principles of academic work in the respective subject.

(3) Academic misconduct may also arise from active participation in the misconduct of others, co-knowledge of the falsification of data and results by others, co-authorship of falsified publications, neglect of supervisory duties.

§ 2

(1) The University of Tübingen's regulations for the prevention and avoidance of academic misconduct comprise four main areas:

1. Documentation of academic work and long-term data backup
2. Monitoring of good academic work and conduct
3. Continuing education on good academic work and conduct
4. Discourse culture regarding cases of academic misconduct

(2) Regulations for the documentation of experimental work (e.g. laboratory journals) and the permanent archiving of primary data (e.g. data carriers, storage location) are developed by the individual disciplines (faculties, departments) and standardized as far as possible on an interfaculty basis.

(3) The University defines measures that are suitable for monitoring good academic work and conduct. Such measures may include, for example, the supervision of doctoral candidates within the framework of a set of rules that is mandatory for all faculties and is based on structured doctoral training programs, the random review of academic publications and theses, or the option of randomly inspecting original data.

(4) The University is establishing a continuing education plan to promote good academic work and conduct. This includes, in particular, the training of students and doctoral candidates, the further training of professors and management staff and the training of all other academic and non-academic University employees. The decisive aim of these measures is to communicate the principles of good academic practice and their continuous implementation in the thoughts and actions of all members of the University.

(5) The University of Tübingen takes a public stance against misconduct in academia. Within the scope of the competencies of the responsible University bodies, it issues statements and organizes internal faculty, intra-university and public events, which serve the purpose of creating transparency and understanding for open dealing with problems of misconduct in academia as one of the best ways to prevent such misconduct.

Part II: Dealing with suspected academic misconduct

§ 3

Everyone has the right to appeal to an ombudsperson appointed by the University if academic misconduct is suspected.

§ 4

The Senate appoints six ombudspersons and an equal number of deputy ombudspersons from among the professors for a term of four years. These office holders may be re-elected once. Each area - medicine, the sciences, and the humanities - shall elect one female and one male ombudsperson and one female and one male deputy ombudsperson. The deputies represent the ombudspersons in the event of absence or concerns of bias within the meaning of §§ 20 and 21 of the state administrative procedures act (LVwVfG). The office of ombudsperson may not be held by the President, Vice-Presidents, members of the Senate, the University Council, the management of the University Hospitals, Deans or members of the investigative commission under § 7.

§ 5

(1) The ombudspersons are entrusted with the task of advising persons confidentially who inform them of suspected academic misconduct or who feel that they have been exposed to suspicion of academic misconduct. They take up specific indications of academic misconduct of which they become aware in any other way, anonymously if necessary.

(2) Ombudspersons are obliged to maintain confidentiality. They are independent in the performance of their duties. They shall share their experiences with each other and may report on them to the President's Office in an appropriate form, while maintaining confidentiality, if they deem it necessary. Otherwise, the confidentiality of the procedure must be permanently maintained and information about the suspicion may only be provided in accordance with § 6.

(3) The respective ombudsperson examines the specific suspicion of academic misconduct in terms of its plausibility and significance. They mediate between the parties involved and, as far as possible, ensure that conflicts are resolved amicably. The ombudsperson also advises persons who have been involved in a case of academic misconduct through no fault of their own on how they can maintain or restore their academic or personal reputation. The ombudsperson shall proceed from the principle of the presumption of innocence in all steps of the procedure, regardless of whether he or she is convinced that a suspicion of misconduct exists which gives rise to further action in accordance with § 6. The proceedings should be conducted swiftly in the interests of all parties involved.

§ 6

(1) If the suspicion of academic misconduct is confirmed and if, in the opinion of the ombudsperson, this suspicion is not refuted during the hearing (see sentence 3 below), the ombudsperson shall report in writing to the responsible University committees (§ 7 or § 9). The ombudsperson may pass on information entrusted to him or her by those seeking advice only if - and to the extent that - there is reasonable suspicion of misconduct, the non-prosecution of which would cause considerable damage to the University of Tübingen, its members or third parties. Before the report is forwarded, the person concerned who is accused of academic misconduct shall be informed in writing by the ombudsperson of the allegations against him or her and heard in writing or orally within a reasonable period of time; a copy of the intended report shall be attached to the information provided to the person concerned. In the event of an oral hearing by the ombudsperson, the person concerned may be accompanied by a person he or she trusts. In the event that the suspicion is confirmed, the ombudsperson shall, when submitting the report, inform the relevant University committees also of the outcome of the hearing.

(2) If the suspicion of academic misconduct is not confirmed, the ombudsperson shall informally discontinue the investigation. If the ombudsperson deems it necessary, he or she may inform the President's Office, the whistleblower and the person concerned.

Part III: Commission and procedures

§ 7

The Senate elects a Commission to investigate academic misconduct. The commission consists of five members. Three must be full-time professors at the University within the meaning of § 44 (1) no. 1 LHG; one must be an academic employee of the University within the meaning of § 44 (1) no. 2 LHG; and one must be a professor or academic director at another academic institution. Each of the professors should belong to one of the fields of medicine, the natural sciences, or the humanities; one member of the committee who is not an academic staff member must be qualified to hold judicial office.

Membership lasts three years. A deputy shall be appointed for each member of the Commission; this deputy shall represent the member in the event that he or she is unable to attend. The deputies should meet the same requirements (listed above) as the member they are representing. Similarly, one of the deputies must be qualified to hold judicial office. Reappointment is permitted.

§ 8

The Commission elects a chairperson and deputy chairperson from among its members.

§ 9

The Commission is independent and not subject to any directives. It is supported by all University bodies within the scope of their responsibilities, in particular with regard to providing meeting rooms. In the interests of all parties involved, procedures should be conducted swiftly. The University administration is responsible for the preparation and recording of the meetings and the keeping of files; recordings must take into account the confidentiality of the procedure and essentially be limited to procedural determinations. The responsibility of the examination, doctoral and habilitation committees for identifying and punishing academic misconduct in direct connection with the awarding of academic degrees remains unaffected. In this case, the Commission may limit the investigation accordingly and, if necessary, resume issues that have not been dealt with after completion of the special procedures mentioned in sentence 5. If the Commission's investigation gives rise to sufficient suspicion of conduct relevant to disciplinary law or of a breach of employment contract obligations, or if the Commission becomes aware of such proceedings already underway, the Commission shall immediately inform the President and temporarily suspend its investigation, unless the Commission is asked by the President to continue the investigation regardless, due to the circumstances of the case.

§ 10

The Commission conducts the investigation at its own discretion. It shall be guided by the principle of the presumption of innocence until it is convinced that misconduct has been proven. It shall inform the President's Office immediately of the start and outcome of each procedure. The investigation is conducted *in camera*. The provisions of the state administrative procedures act (LVwVfG), in particular §§ 20, 21 and 88 ff. are to be applied accordingly. Confidentiality must be maintained at all times with regard to the Commission's investigation and the information obtained in the course of the Commission's work. Insofar as actions or information appear necessary to protect the University's interests, this must be limited to the extent necessary.

§ 11

The ombudspersons may participate in any investigation in an advisory capacity; therefore the Commission gives them the opportunity to attend meetings. At the request of the Commission, they may be obliged to attend its meetings.

§ 12

When initiating the investigation, the Commission must give the person concerned the opportunity to comment on the ombudsperson's report, in writing or orally, within a reasonable period of time; the same applies after completion of the deliberations before the Commission's final decision.

The whistleblower must also be given the opportunity to make a written or oral statement to the Commission within a reasonable period of time. His or her identity shall only be disclosed to the person under investigation if that person is otherwise unable to defend him or herself adequately. In the event of an oral hearing by the Commission, the person concerned and the whistleblower may each be accompanied by a person they trust.

§ 13

The Commission may call in experts for its deliberations and hear witnesses. The members of the Commission and any third parties consulted are obliged to maintain confidentiality regarding all Commission matters.

§ 14

The Commission assesses the evidence freely to determine whether it is convinced that there has been academic misconduct.

§ 15

If academic misconduct is not proven, the investigation is formally discontinued by resolution. The ombudspersons, the whistleblower and the person concerned will be informed in writing of the discontinuation of the investigation and the reasons for this.

§ 16

If the Commission deems academic misconduct to have occurred, it formally establishes the facts and assessment in a resolution. It may make recommendations to the responsible University bodies regarding further proceedings in the matter. The nature and severity of the misconduct found - as well as the rights and interests of third parties, especially if they have funded or financed research projects - must be taken into consideration. The Commission sends its resolution, including any recommendations, to the President's Office, the ombudsperson and the person concerned. The President's Office decides on how to proceed and, if it is not responsible itself, approaches the relevant University bodies.

§ 17

The Commission's investigation ends when the resolution is sent. Legal decisions on the consequences of academic misconduct are made by the competent bodies.

§ 18

(1) If the President's Office considers academic misconduct to be proven, it may impose the following sanctions and/or take the following measures within the framework of proportionality:

- a) a written reprimand,
- b) a request to the accused person to retract or correct incriminated publications or to refrain from publishing incriminated manuscripts,

- c) withdrawal of funding decisions or withdrawal from funding contracts insofar as the decision was made by the University or the contract was concluded by the University, including, if necessary, a recovery of funds,
- d) exclusion from time-limited work as an expert or member of a University committee,
- e) against University employees: warning under employment law, dismissal, termination of contract, extraordinary dismissal,
- f) against University civil servants (Beamte): initiation of disciplinary proceedings under civil service law with the measures provided for therein, including interim measures,
- g) criminal complaint to the police or the public prosecutor's office,
- h) regulatory offense complaint to the competent authority,
- i) assertion of claims under civil law - also by way of interim legal protection - in particular for damages, restitution or removal/omission,
- j) assertion of any claims under public law, also by way of interim legal protection,
- k) initiation of proceedings for the withdrawal of an academic degree or suggestion of the initiation of such proceedings.

(2) examination, doctoral and habilitation committees each decide within the scope of the statutory possibilities.

(3) sanctions and measures other than those specified in (1) and (2) may only be imposed if they are proportionate in view of the legal interests and legitimate interests of the accused person.

(4) measures under (1) and (2) are not unlawful merely because they have not been recommended in the documents and notifications under § 16.

§ 19

These provisions serve solely to regulate the University's internal procedures and do not confer any subjective public rights vis-à-vis the University or its members. This also applies in particular to persons within the meaning of § 3 of these rules of procedure.

§ 20

These rules of procedure come into effect on the date of their publication in the University of Tübingen's official bulletin, the Amtliche Bekanntmachungen. At the same time, the University of Tübingen rules of procedure for dealing with academic misconduct of 21.11.2013 (Amtliche Bekanntmachungen no. 23 /2013, p. 1004) as amended on 10.11.2016 (Amtliche Bekanntmachungen no. 25 /2016, p. 754) and on 14.12.2017 (Amtliche Bekanntmachungen no. 18/2017, p. 464) shall cease to be in force.

Tübingen 15.06.2023

Professor Dr. Karla Pollmann,
President