

# Rules of Procedure

## for Dealing with Scientific Misconduct

(adopted by the DFG's Joint Committee on 26 October 2001 and amended by the Joint Committee on 5 July 2011)



## I. Scope

The Rules of Procedure for Dealing with Scientific Misconduct regulate the DFG's course of action in cases of suspected scientific misconduct by

- applicants, grant recipients, and other individuals responsible for the use of DFG funds, as well as
- DFG reviewers and members of DFG committees participating in review and decision-making processes.

The dialogue-based procedure serves to investigate and assess allegations of scientific misconduct.

## II. Scientific Misconduct

### 1. Scientific misconduct by applicants, grant recipients, and other individuals responsible for the use of DFG funds

Scientific misconduct by applicants, grant recipients, and other individuals responsible for the use of DFG funds (such as non-DFG funded individual project leaders) is defined as the intentional or grossly negligent statement of falsehoods in a scientific context, the violation of intellectual property rights, or impeding another person's research work. The circumstances of each case shall be considered on an individual basis.

Severe scientific misconduct in this sense includes especially:

#### a) Misrepresentation

- fabrication of data and/or research findings;
- falsification of data and/or research findings, e.g. through
  - ⇒ changing or omitting undesirable findings without appropriate disclosure,
  - ⇒ manipulation of representations or depictions;
- inaccurate information in a grant proposal or as part of the reporting requirements (including false statements regarding the publication outlet and concerning publications in press).

#### b) Violation of intellectual property

regarding copyrighted works created by others or significant scientific findings, hypotheses, theories or approaches to research produced by others, including:

- unauthorised use following a claim of authorship (plagiarism),
  - exploitation of the research approaches and ideas of others (“theft” of ideas),
  - unauthorised disclosure of data, theories and findings to third parties,
  - claiming or accepting unjustified authorship or co-authorship of a scientific work,
  - falsification of content,
  - unauthorised publication and unauthorised provision of access to a work, finding, hypothesis, theory or research approach to third parties before it has been published by its author.
- c) Claiming authorship or co-authorship of another person’s work without his/her permission
- d) Sabotaging research activities (including damaging, destroying or manipulating experiments, equipment, documents, hardware, software, chemicals, or other items needed by another scientist to conduct research).
- e) Destruction of primary data to the extent that this violates legal provisions or the discipline’s accepted principles of scientific work. This also applies to the illegal non-destruction of data.

Shared responsibility for misconduct may result from e.g.

- participation in others’ misconduct,
- gross neglect of supervisory responsibilities,
- co-authoring publications which contain falsifications.

## **2. Scientific misconduct by reviewers and members of committees**

Scientific misconduct by reviewers and committee members may involve

- unauthorised use, for their own scientific purposes, of data, theories and findings of which they have acquired knowledge through their activities;

- violating the confidentiality of the review process through unauthorised disclosure to third parties of proposals or of data, theories and findings included therein.

### III. Procedure in Cases of Suspected Scientific Misconduct

The procedure in cases of suspected scientific misconduct is confidential.

#### 1. Preliminary inquiry

##### a) Within the DFG Head Office

If employees of the Head Office become aware as part of their duties of any specific indications of possible scientific misconduct, they must immediately notify the head of the department in charge of the preliminary inquiry or the DFG's Legal Affairs Office. Once the indications of possible scientific misconduct have been sufficiently substantiated, generally in writing, the individual against whom the allegation is directed (hereinafter referred to as "respondent") shall be notified of the incriminating facts and evidence, and given an opportunity to respond with a written statement. The statement must generally be submitted within four weeks.

The name of the person who makes the allegation of scientific misconduct (hereinafter referred to as "complainant") or the injured party is not disclosed to the respondent at this stage without the consent of the party concerned.

##### b) Discontinuance

After the statement has been reviewed or the deadline has expired, the head of the department in charge of the preliminary inquiry shall promptly decide whether the inquiry should be discontinued for lack of reasonable suspicion of scientific misconduct or due to insignificance, and both parties should be notified accordingly.

Discontinuance due to insignificance may be appropriate if less severe scientific misconduct has been established and the respondent has contributed significantly to clarifying the matter; has voluntarily offered, if appropriate, to take an action as per section III.3.c), in particular to publish an erratum; or has already taken action to remedy the damage that has occurred. The Committee of Inquiry on Allegations of Scientific Misconduct shall be informed of the discontinuation of the proceedings after the fact.

This decision shall be communicated to the complainant(s) first.

If the complainants disagree with the discontinuance of the inquiry, they have the right to remonstrate within two weeks with the DFG Head Office, which shall then review its decision.

The respondent shall be notified of the decision that concludes the initial investigation.

c) Referral for formal investigation

If the preliminary inquiry cannot be discontinued, the case is referred for formal investigation, which is conducted by the Committee of Inquiry on Allegations of Scientific Misconduct.

In this case the complainants should be advised that the decision is to be kept strictly confidential.

## 2. Simultaneous procedures by third parties

If the allegation of scientific misconduct is being examined simultaneously by a university/non-university ombudsman and/or through university/non-university proceedings, the DFG investigation shall be initiated and usually suspended until the other procedure has concluded.

If the suspicion of scientific misconduct by individuals as per section II is confirmed in an investigation conducted by the Research Ombudsman, the Research Ombudsman shall pass the inquiry to the DFG Head Office.

Decisions in the aforementioned procedure have no binding effect on the substance of the investigation conducted by the DFG.

## 3. Formal investigation

a) Committee of Inquiry on Allegations of Scientific Misconduct

The Committee of Inquiry on Allegations of Scientific Misconduct is in charge of the formal investigation. It consists of four members representing the four major scien-

tific disciplines (humanities and social sciences, natural sciences, life sciences, and engineering sciences). Members are elected by the DFG's Joint Committee for a term of three years. They may be re-elected once. The Committee of Inquiry shall be convened by the Secretary General of the DFG. It is presided over by the Secretary General, who has no vote.

The Committee of Inquiry may in individual cases appoint up to two experts on the subject matter in question as additional Committee members in an advisory capacity.

The voting members of the Committee have equal voting rights.

The DFG Guidelines for Avoiding Conflicts of Interest<sup>1</sup> apply accordingly.

b) Procedure

The Committee of Inquiry on Allegations of Scientific Misconduct advises in an oral hearing that is not open to the public. In specific cases where the participation of a Committee member would create the appearance of a conflict of interest, that Committee member shall not participate in the hearing.

The researcher accused of scientific misconduct shall be given the opportunity to make a statement in an appropriate manner. He/She must be heard orally upon his/her request and may engage a trusted person as counsel in the hearing. This also applies to others to be heard in the case.

The decision of whether to disclose the names of the complainants shall be determined individually in each case. They must be disclosed if the respondent cannot otherwise properly defend himself/herself, e.g. because the complainants' credibility and motives regarding the allegations of misconduct must be examined.

The Committee shall consider in a free evaluation of evidence whether scientific misconduct has occurred and what sanctions should be imposed as per section III.3.c).

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<sup>1</sup> DFG form 10.201e

If a majority of the Committee of Inquiry finds that misconduct has been proven sufficiently and a sanction is necessary, it shall submit the results of its investigation and a recommendation for action to the DFG's Joint Committee. Otherwise the proceedings shall be discontinued.

c) Sanctions

The Joint Committee may, after a hearing on the recommendation of the Committee of Inquiry on Allegations of Scientific Misconduct, impose one or more of the following sanctions, depending on the nature and severity of the scientific misconduct including:

- issuing a written reprimand to those involved;
- exclusion from the right to apply for DFG funds for a period of one to eight years, depending on the severity of the scientific misconduct;
- revoking funding decisions (complete or partial cancellation of the grant, recalling granted funds, demanding repayment of funds spent);
- demanding that those concerned either retract the discredited publications or correct the falsified data (in particular by publishing an erratum), or appropriately indicate the DFG's retraction of funding in the discredited publications;
- exclusion from acting as a reviewer or from membership in DFG committees for a period of one to eight years, depending on the severity of the scientific misconduct;
- denying voting rights and eligibility in elections for DFG statutory bodies and committees for a period of one to eight years, depending on the severity of the scientific misconduct.

d) Conclusion of the procedure

The main reasons that led to the discontinuance of the inquiry or the decision of the Joint Committee shall be communicated to the respondent, any complainants, and any other individuals with a vested interest in the decision.

A reference to the Joint Committee's decision shall be included in the respondent's file.

The Joint Committee's decision marks the end of the DFG's proceedings.

The decision as to whether the Joint Committee's finding should be publicised to serve a legitimate public interest shall be considered individually in each case.