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## **Rules of the University of Passau for the Ascertainment of Good Research Practice and for the Investigation of Alleged Academic Misconduct**

of 31 July 2008

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On the basis of Art. 13(1) sentence 2 in conjunction with Art. 6(1) sentence 3 second clause of *Bayerisches Hochschulgesetz* (BayHSchG; the Bavarian higher education act), the University of Passau lays down the following statute:

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## **§ 1 General provisions**

<sup>1</sup>As part of its legal mandate, the University of Passau is responsible for organising research, teaching and supporting early career researchers. <sup>2</sup>In discharging its responsibility in research, it has the authority and obligation to make arrangements for handling cases of academic misconduct using the means given by the law. <sup>3</sup>This is how the University upholds recognised standards of scholarship and fulfils its responsibilities under the law to make use of tax resources for the intended purposes or meet its contractually undertaken obligations to make use of private funds for the intended purposes.

## **§ 2 Rules of good research practice**

(1) <sup>1</sup>When it comes to academic research at the University of Passau, all the University's members who conduct research are held to comply with the rules of good research practice.

<sup>2</sup>These are:

1. general principles of academic research, such as
    - a) lege artis work,
    - b) documentation of the results,
    - c) consistently challenging the veracity of all the outcomes,
    - d) strict probity as regards contributions made by partners, competitors, predecessors and
  2. special rules for individual disciplines.
- (2) The co-authors of research publications are jointly responsible for the content unless separate responsibility for individual parts is specified in the publication.
- (3) Where necessary for the purpose of verifiability, primary data which forms the basis of published work must be saved on durable and safe media for a period of ten years.
- (4) Without prejudice to the responsibility of the University Executive, each faculty is responsible for operating an appropriate and proportionate organisation in its remit where, depending on the size of the individual research units, the tasks in management, supervision, conflict resolution and quality assurance have been clearly assigned and are effectively being performed by its members.

## **§ 3 Commitment on the part of the academic staff to observe the rules of good research practice**

<sup>1</sup>All members who conduct research at the University of Passau must be advised of the rules of good research practice. <sup>2</sup>These rules are binding on them. <sup>3</sup>The rules are part of the training that early career researchers receive.

## **§ 4 Supervision of early career researchers**

(1) Particular attention must be given to the training and support of early career researchers.

(2) <sup>1</sup>Early career researchers are entitled to regular scientific advice and support from supervisors or the heads of research fields and working groups; early career researchers, for their part, are beholden to work responsibly and in a spirit of collegiality. <sup>2</sup>The head of a research field or working group has the responsibility of ensuring that early career researchers receive adequate supervision.

## **§ 5 Achievement and evaluation criteria**

<sup>1</sup>Originality and quality are achievement and evaluation criteria that always take precedence over quantity when it comes to examinations, awarding academic degrees, recruitment, promotions, appointments and budget appropriations. <sup>2</sup>This is the principle that achievement and evaluation criteria must be based on.

## **§ 6 Academic misconduct**

(1) <sup>1</sup>Academic misconduct occurs when false statements are made deliberately or through gross negligence in a scientific context, when the intellectual property of others is infringed or their research activities are otherwise prejudiced. <sup>2</sup>The circumstances of each individual case are decisive.

<sup>3</sup>In particular, the following may represent potentially serious misconduct:

### **1. misrepresentations**

- a) the invention of data,
- b) the falsification of data, for example
  - by selecting or eliminating undesirable results without disclosing that this has been done,
  - by manipulating a graph or figure,
- c) incorrect information in an application letter or in an application for funding (including misrepresentations about the publisher, the publication status and about publications in the process of being printed),
- d) incorrect information on the research project carried out by applicants in selection committees;

### **2. Infringement of the intellectual property of a copyrighted work created by another person or of another person's research findings, hypotheses, theories or research methods:**

- a) unauthorised use of someone else's material while taking undue credit for authorship (plagiarism);
- b) exploiting research methods and ideas, especially as supervisor or reviewer of papers written by early career researchers (theft of ideas),
- c) taking undue credit for academic authorship or co-authorship or false assumption of academic authorship or co-authorship
- d) falsification of the content,

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- e) unauthorised publication and unauthorised disclosure to third parties as long as the work, finding, hypotheses, theory or research method has not been published;
  - 3. naming someone as a (co-)author without that person's consent;
  - 4. sabotaging research activities (including damaging, destroying or manipulating experimental designs, devices, documents, hardware, software, chemicals or other things needed by others to conduct an experiment);
  - 5. removing primary data, provided such an act violates legal provisions or a discipline's accepted principles of academic research.
- (2) Academic misconduct includes any conduct that results in shared responsibility for the misconduct of others, particularly by way of
- 1. active participation in the misconduct of others,
  - 2. knowledge of falsifications made by others,
  - 3. co-authorship in publications tainted by falsifications or
  - 4. grossly neglecting supervisory obligations.

## **§ 7 Ombudsperson**

(1) <sup>1</sup>The Senate of the University of Passau shall, upon recommendation by the University Executive, appoint one experienced academic (ombudsperson) as a contact person for members of the University who wish to bring forth allegations of academic misconduct, as well as one deputy. <sup>2</sup>The ombudsperson will advise anyone who informs them of alleged academic misconduct and independently address any relevant indications of which he or she might become aware (as the case may be, through third parties). <sup>3</sup>With a focus on plausibility, he or she will evaluate the specificity and significance of the allegations, check for possible motives and for opportunities to clear the allegations.

(2) The ombudsperson and his or her deputy are appointed for a three-year term and can be re-appointed.

## **§ 8 Pursuit of academic misconduct; standing committee for the investigation of allegations of academic misconduct**

(1) <sup>1</sup>The University of Passau will investigate any specific grounds for suspicion of academic misconduct at the University. <sup>2</sup>For this purpose, the University senate has appointed a standing committee for the investigation of allegations of academic misconduct (hereinafter: investigative committee) to officially establish the facts in issue. <sup>3</sup>The committee is made up of three University of Passau professors with research experience. <sup>4</sup>The ombudsperson and his or her deputy are members of the investigative committee in an advisory capacity. <sup>5</sup>The members of the investigative committee are appointed for a three-year term and can be re-appointed.

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(2) <sup>1</sup>The investigative committee elects a chairperson from among its members. <sup>2</sup>The procedure is governed by Art. 41 BayHSchG in conjunction with the relevant provisions of the University of Passau's constitution as last amended.

(3) The procedure before the investigative committee shall not replace or prevent any other legally or statutorily regulated procedures (for example, academic procedures, procedures under labour or civil-service law, civil or criminal proceedings).

## **§ 9 Preliminary inquiry**

(1) <sup>1</sup>As a rule, the ombudsperson, and where necessary a member of the investigative committee charged with investigating academic misconduct, will be notified whenever there are specific indicators of academic misconduct. <sup>2</sup>Notification must be in writing; if the information is imparted orally, a memorandum on the suspicion must be drawn up and any documents supporting this suspicion must be recorded.

(2) The ombudsperson – while ensuring confidentiality to protect the complainant and those affected – shall refer the allegations of academic misconduct to the investigative committee, which will then investigate the matter.

(3) <sup>1</sup>The investigative committee will give the person suspected of misconduct an opportunity to respond to the allegations after presenting him or her with the incriminating circumstances and evidence. <sup>2</sup>Subsection 1 sentence 2 applies accordingly. <sup>3</sup>The respondent is given two weeks to respond. <sup>4</sup>In this phase, the name of the complainant will not be disclosed to the respondent without the complainant's consent.

(4) <sup>1</sup>Once a response has been received from the respondent, or the time period given him or her for the response has lapsed, the investigative committee has two weeks to decide whether the preliminary inquiry is to be terminated – presenting the reasons for such termination to the respondent and the complainant – on grounds that the suspicion has not been sufficiently confirmed or the respondent has been completely cleared of the misconduct allegation or whether the matter should proceed to a formal investigation. <sup>2</sup>The investigative committee will notify the respondent, the complainant and the University Executive of their decision in writing.

(5) If the complainant does not agree with termination of the preliminary inquiry, he or she is given two weeks time to request an appearance before the investigative committee, which will review its decision.

## **§ 10 Formal investigation procedure**

(1) <sup>1</sup>The investigative committee will examine the allegation taking all evidence into unbiased consideration. <sup>2</sup>It is authorised to undertake all steps necessary to establish the facts in issue. <sup>3</sup>To this end, the committee can request all the necessary information and opinions and, in specific cases, consult expert assessors from the field of the research-related facts in issue to be established and experts for handling such cases.

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(2) <sup>1</sup>The respondent must be made aware of the incriminating circumstances and any evidence presented. <sup>2</sup>If she or he so requests, he or she will be heard; he or she can be accompanied by a person of confidence to support him or her. <sup>3</sup>This also applies to all other persons who are scheduled to be heard.

(3) Disclosure of the claimant's name may become necessary if non-disclosure prevents the respondent from mounting an effective defence, for instance because the claimant's credibility and motivation need to be assessed with a view to the allegation of potential misconduct put forward by him or her.

(4) <sup>1</sup>If the investigative committee finds that misconduct has not occurred, the procedure will be discontinued. <sup>2</sup>If the committee finds that misconduct has occurred, it will submit the outcome of its investigation to the University Executive along with a proposal on how to proceed, also as regards the protection of third-party rights, the decision and any further action to be taken.

(5) <sup>1</sup>The chairperson of the investigative committee must notify the respondent and the complainant of the main reasons leading to the discontinuation of the procedure or referral to the University Executive in writing without undue delay. <sup>2</sup>There is no appeal against the decision of the investigative committee.

(6) The files of the formal investigation will be retained for a period of 30 years.

## **§ 11 Further proceedings**

(1) <sup>1</sup>If academic misconduct has been established, the University Executive will assess the need for further action in an effort to uphold the university's academic standard and protect the rights of anyone directly and indirectly affected. <sup>2</sup>Any punishment of academic misconduct will be determined by the circumstances of the individual case. <sup>3</sup>The University Executive will communicate the outcome of its assessment to the ombudsperson and the chairperson of the investigative committee in writing.

(2) <sup>1</sup>At the university, academic consequences at faculty level, including revocation of the academic degree or of teaching credentials, must be considered. <sup>2</sup>The faculties will check whether and to what extent other researchers (former or potential cooperation partners, co-authors), research institutions, academic journals and publishers (where publications have made), funding institutions and academic organisations, professional organisations, ministries and the public should or must be informed.

(3) In line with their area of responsibility, the bodies and institutions of the University of Passau will ensure that procedures are initiated under labour law, civil law, penal law or regulatory law, depending on the circumstances.

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## **§ 12 Effective date and transitional provision**

- (1) These rules enter into force on the day after their publication.
- (2) The ombudsperson appointed in accordance with the regulations of the University of Passau for the Ascertainment of Good Research Practice and for the investigation of alleged academic misconduct dated 13 June 2002 at the time of entry into force of these rules and the members of the standing committee for the investigation of allegations of academic misconduct will remain in office until their regular term of office expires.

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Issued as per the resolution of the Senate of the University of Passau of 23 July 2008 and as approved by the President of the University of Passau on 25 July 2008, reference number HA2.I-04.2460/2008.

Passau, 31 July 2008

UNIVERSITY OF PASSAU  
The President

Professor Walter Schweitzer

This statute was issued by the University on 31 July 2008 and announced on 31 July 2008 by posting on the noticeboards of the University.

The date of promulgation is 31 July 2008.