

Non-official reading version of TU Bergakademie Freiberg

Regulations on Safeguarding Good Scientific Practice and on Handling Scientific Misconduct at TU Bergakademie Freiberg

This English version is intended to assist students, doctoral candidates and employees who may find it difficult to understand the original German one. If there is any contradiction between this translation and the German text of these regulations, then the German text (Official Notification No. 2 from 20th of January 2022) is to be regarded as authoritative.

According to Paragraph 13, Section 3 of the Saxon University Freedom Law (*Sächsisches Hochschulfreiheitsgesetz – SächsHSFG*) of 15 January 2013 (*SächsGVBl. p. 3*), last changed by Article 2 of the Law of 30 September 2021 (*SächsGVBl. p. 1122*), the Senate of TU Bergakademie Freiberg adopted in agreement with the Rectorate of 23 November 2021 the following

**Regulations
on safeguarding good scientific practice
and handling scientific misconduct
at the TU Bergakademie Freiberg**

Content:

Preamble

I. Policies to protect good scientific practice and actions to prevent scientific misconduct

- § 1 Subject and scope of application of the regulations and language use
- § 2 General principles of good scientific practice
- § 3 Leadership responsibility and cooperation in research groups
- § 4 Supervision and support of young scientists
- § 5 Scientific publications
- § 6 Performance and evaluation criteria
- § 7 Cross-phase quality management and research design
- § 8 Securing and storing primary data

II. Criteria of scientific misconduct

- § 9 Definition and Forms of Scientific misconduct
- § 10 Shared responsibility for misconduct

III. Bodies to investigate allegations of scientific misconduct

- § 11 Ombudsperson
- § 12 Commission

IV. Guidelines on handling allegations of scientific misconduct

- § 13 Acceptance of allegations
- § 14 Dealing with whistle-blowers
- § 15 Inquiry
- § 16 Investigation
- § 17 End of procedure, sanctions
- § 18 Further measures, duration of the procedure, keeping records

V. Possible decisions and sanctions in cases of scientific misconduct

- § 19 Measures in the event of scientific misconduct

VI. Final Clause

- § 20 Entry into force, Expiration

Preamble

Scientific work is based on fundamental principles that are the same in all countries and in all scientific disciplines. First and foremost is honesty towards oneself and others. It is both an ethical norm and the basis of the rules of good scientific practice that apply in the individual disciplines. It follows from the obligation of each individual scientist to deal responsibly with the constitutionally guaranteed freedom of science.

Communicating principles of good scientific practice and scientific integrity to the members of the higher education institution, in particular to students, young scientists, teaching and research assistants and professors, and verifying compliance with them is one of the main tasks of higher education institutions. Ensuring the conditions for their validity and application in practice is a main task of autonomous science.

Good scientific practice is a prerequisite for efficient and internationally recognised scientific work. All members of TU Bergakademie Freiberg are obliged to follow these rules, to make them the basis of their scientific work and to actively contribute to the prevention of scientific misconduct in their field of activity. TU Bergakademie Freiberg ensures that these rules are known to all members of the university.

Any justified suspicion of scientific misconduct within TU Bergakademie Freiberg will be investigated with the utmost attention and with due regard for the rights of those involved. If the suspicion is substantiated, appropriate measures will be taken for the individual case.

The procedure for dealing with allegations of scientific misconduct described in these regulations shall be used to deal with cases of conflict in the field of scientific practice.

These regulations for safeguarding good scientific practice and for dealing with scientific misconduct at TU Bergakademie Freiberg follow the Code of Conduct "Guidelines for Safeguarding Good Scientific Practice"¹ adopted by the German Research Foundation (DFG) on 3 July 2019 and implement its provisions in a legally binding manner.

¹ <https://doi.org/10.5281/zenodo.3923602>

I. Policies to protect good scientific practice and actions to prevent scientific misconduct

§ 1 Subject and scope of the regulations and language use

- (1) These regulations formulate the principles of good scientific practice in general as well as in the research process and describe the responsible bodies for investigating allegations of scientific misconduct at TU Bergakademie Freiberg. It also defines scientific misconduct and sets out the procedure to be followed in the event of suspected scientific misconduct.
- (2) The regulations apply to all members of the TU Bergakademie Freiberg and all other persons who are scientifically active at the TU Bergakademie Freiberg.
- (3) Insofar as a feminine or masculine formulation is chosen in these regulations, the respective regulation shall apply to all persons irrespective of their gender.

§ 2 General principles of good scientific practice

General principles of good scientific practice are:

- observing professional standards: **work lege artis**, i.e. according to the recognised rules of the discipline
- **careful and honest handling of the collected data and research results** (complete, clear and comprehensible documentation of the individual work steps and all important results – duty of documentation; exact observance of discipline-specific rules for data collection and selection; securing and safe storage of the primary data; guaranteeing the reproducibility of the results before publication as well as granting access to authorised third parties – criteria of reproducibility and traceability).
- **be self-critical, question results consistently** (repeat measurements as well as create duplicates/triplicates) to check the reproducibility of the data; use different methods).
- **raising awareness of tacit axiomatic assumptions**
- **developing a systematic alertness to any possible misinterpretations** as a consequence of the methodically limited ability of the object of research to be recorded
- **strict honesty regarding the contribution of partners, competitors, colleagues and predecessors** (no hindrance of scientific work of competitors, for example by delaying reviews or by passing on scientific results which one received confidentially; careful, unselfish and impartial survey of the work of team colleagues; no performance of prejudiced appraisals)
- **respecting and protecting intellectual property** (correct and careful researching and citing)
- **respect** for colleagues, students, doctoral candidates, study participants, animals, cultural assets and the environment
- compliance with ethical standards when conducting surveys and studies

- **no sabotaging of research work** (no damaging, destroying or manipulating experimental set-ups, equipment, documents, hardware, software, chemicals or other materials another party requires for conducting their scientific work)
- **no stealing of intellectual property** (no exploitation of research approaches and ideas of others, neither unauthorised publication and disclosure to third parties of papers, hypotheses, findings which have not been published yet)
- **no involvement of a ghostwriter** (no collaboration with third parties who contribute texts or parts of texts to the dissertation or a scientific paper which the author, with the ghostwriter's consent, passes off as his/her own work)
- **careful quality management** through constructive-critical cooperation in scientific research groups which have clear structures of responsibility
- **enabling and promoting critical discourse** in the scientific community.

§ 3 Leadership responsibility and cooperation in research groups

- (1) Every scientist is responsible for his/her own actions and conduct. This responsibility is not limited to compliance with legal requirements, but also includes the obligation to use one's own knowledge, experience and skills in such a way that risks can be identified, assessed and evaluated. In particular, aspects of safety-relevant research (dual use) and ethical principles must be taken into account. Identified risks are proactively reported to the Vice-Rectorate for Research and Transfer. After examining the facts, the Vice-Rectorate arranges for the procedure to be referred to the responsible committees.
- (2) The Rectorate, heads of the individual institutes, holders of professorships and heads of research units shall be responsible for full implementation of the principles of good academic work and for compliance with legal and ethical standards. By creating the necessary framework conditions and an adequate organisational structure, they ensure that the responsibilities for leadership, supervision, conflict resolution and quality control are clearly distributed and known to all involved; they also check compliance with the guidelines.
- (3) The framework conditions include compliance with the written procedures and principles for personnel selection and personnel development as well as for the promotion of young academics and equal opportunities. Relevant and binding in this context are the current personnel development concept and equal opportunities concept of TU Bergakademie Freiberg as well as the Inclusion Action Plan.
- (4) The management of scientific working units, e.g., working groups, is responsible for the entire unit. It ensures that the group as a whole can fulfil its tasks, that the necessary cooperation works and that all members of the group are aware of their rights and duties.

The tasks of the persons entrusted with the leadership of the research or project group are to be organised in such a way that they can be performed by them (to ensure the overview and the presence/availability of the leading persons as contact persons). Leadership tasks in research groups can only be performed responsibly with full knowledge of all relevant circumstances; leading a research group requires expertise, availability and a broad perspective. If this cannot be guaranteed to the necessary extent due to the size of the group or

for other reasons, leadership functions must be delegated in such a way that the division of leadership remains manageable. Abuse of power and exploitation of dependencies must be prevented.

- (5) Cooperation in scientific research groups must be organized in such manner that the findings achieved in specialized areas within one particular action can be reciprocally imparted, critically reviewed and integrated into the common level of knowledge, irrespective of hierarchical considerations. This is especially important for the training of young scientists to become independent. In larger groups, some organized form for this process (e.g. regular colloquia) is recommended.
- (6) Reciprocal verification of new findings is to be ensured, also by making own results available. The primary test of a scientific discovery is its reproducibility. The more surprising, but also the more desired a finding is, the more important becomes independent replication within the group – if possible with reasonable effort – prior to communicating it to others outside the group. Careful quality assurance is essential to honesty in science.

§4 Supervision and support of young scientists

- (1) Special attention shall be paid to the qualification and promotion of young academics. It is one of the core tasks of TU Bergakademie Freiberg.
- (2) It shall be ensured that the principles of good scientific practice are taught in the training and scientific supervision of young scientists, with particular attention being paid to their observance. Therefore, the principles shall be integrated into teaching and training.
- (3) The faculties are obliged to address the topic of "scientific misconduct" in curricular training and to sensitise students and young academics to this topic. Special attention shall be paid to the training and supervision of young academics, both by supervisors and by the GraFA (Graduate and Research Academy).
- (4) The heads of the sections or research groups shall be responsible for the appropriate supervision of young academics, in particular of diploma, bachelor and master students, doctoral candidates, postdocs and younger postdocs. There must be a main contact person for each person.
- (5) In the case of doctoral candidates, it is recommended that besides the primary contact person an additional experienced scientist is involved in the candidates' supervision. S/he should not belong to the same research group, neither necessarily to the same faculty or institution; if possible s/he should be chosen by the doctoral student.
- (6) The supervision duty includes such support for the young scientist that enables him/her to complete the research work/paper within a reasonable time and furthers his/her scientific career.
- (7) In the case of doctoral candidates, it is recommended to set up a mentoring concept and a supervision agreement.

§ 5 Scientific publications

- (1) According to the principle of public accessibility of research knowledge, all results of research must be included in the scientific discourse. In individual cases, there may be reasons not to make results publicly accessible (in the narrower sense in the form of publications, in the broader sense also via other communication channels); this decision must not depend on third parties. Scientists and scholars decide on their own responsibility - taking into account the practices of the respective field - whether, how and where they make their results publicly available.
- (2) Scientific publications are the most important medium in which scientists report on their work. Through a publication, the authors (or a group of authors) make a new finding known and identify with it; they also take responsibility for its content. At the same time, the authors and/or the publisher acquire documented intellectual property rights (copyright, etc.). In this context, the date of publication (or submission of the publication) is of particular importance in the interest of documenting priority.
- (3) If several authors are involved in a research work or in text, data and software publications based on it, all but only those may be designated as authors and / or co-authors who have made a genuine, traceable contribution to the content or who have made a significant contribution to the conception of the studies or experiments, to the development, analysis and interpretation of the data or to the formulation of the manuscript itself and who have consented to the publication. The authors of publications bear joint responsibility for the content; so-called "honorary authorship" is not permitted. If not all co-authors can assume responsibility for the entire content of a publication, it is recommended that individual contributions be marked.
- (4) Other contributions, even significant ones, such as responsibility for obtaining research funding, providing important materials, instructing co-authors in specific methods, involvement in the collection and compilation of data, leadership or overarching function of an institution or work unit from which the publication originates, are not considered sufficient in themselves to warrant authorship. Such support may be appropriately acknowledged in footnotes, in the preface or in an acknowledgements section. Persons who have supported a research paper in this sense must be asked for their consent to be named.
- (5) Publications intended to report new scientific findings shall meet the following requirements:
 - Describe results and methods used completely and comprehensibly. Self-programmed software is made publicly available with indication of the source code.
 - Give full references to your own and others' preliminary work (citations). When quoting from theses, name the author and use it only with his or her consent.
 - Repeat previously published results only insofar as they are necessary for understanding the context and in clearly marked form.
 - Publish falsified hypotheses in an appropriate manner, admitting errors (principle of an error-open scientific culture).

- Acknowledge and evaluate the contributions of predecessors, competitors and colleagues in a fair and honest manner (principle of recognition).
 - Report findings that support and challenge the results presented in equal measure.
 - Ensure and make every effort, where possible, to ensure that research contributions from publishers or infrastructure providers are labelled in such a way that they can be correctly cited by users.
- (6) For reasons of traceability, research connectivity and reusability, the research data and core materials on which a publication is based should, where possible, be deposited in recognised archives and repositories in accordance with the FAIR ("Findable, Accessible, Interoperable, Re-Usable") principles.
 - (7) If the publication is to contain personal data – individual details about personal or factual circumstances of a specific or identifiable natural person – this shall only be permissible if the persons concerned have consented or if this is indispensable for the presentation of research results about events in contemporary history and if this does not conflict with overriding interests of the persons concerned which are worthy of protection.
 - (8) Authors carefully choose the publication medium, taking into account its quality and visibility in the respective field of discourse. Scholars who take on the function of editors carefully consider for which publication organs they take on this task. A new or unknown publication organ must be checked for its seriousness. An essential criterion in the selection decision is whether the publication organ has established its own guidelines for good scientific practice.
 - (9) It is against the rules of good scientific practice to stop one's own participation in a publication without sufficient reason or to prevent the publication of the results by refusing to consent to publication. The refusal to publish must be justified by verifiable criticism of data, methods or results. Co-authors may contact the Ombudsperson and the Commission for mediation if they suspect an obstructive refusal of consent.

§ 6 Performance and evaluation criteria

- (1) Originality and quality should be prioritised over quantity regarding exams, academic degrees, career advancement and appointments. Neither the numbers of publications nor "impact factors" are on their own an appropriate form of performance evaluation. For the judgement as to the quality of scientific performance the originality, the level of innovation and the gain in knowledge should be considered.
- (2) The rules that follow from the above stated for the practice of scientific work and for the supervision of young scientists are clear; they apply to review and performance evaluation accordingly:
 - Even in fields where intensive competition requires quick publication of findings, the quality of work and of publications must be the primary consideration. Findings, wherever possible, must be verified and replicated before being submitted for publication.
 - Wherever performance has to be evaluated – in reviewing grant proposals, in personnel management, in applications – the evaluators and reviewers

must be encouraged to make explicit judgements of quality primary to all other considerations. They should therefore receive only few publications – selected by their authors as most important or best examples of their work according to the criteria by which they are to be evaluated.

- In addition to scientific performance, other aspects may also be taken into account when evaluating the performance of scientists and academics, provided that the applicable legal framework does not prevent this. For example, a commitment to teaching, academic self-administration, public relations, knowledge and technology transfer or contributions in the interest of society as a whole can be recognised. In addition, academic attitudes such as openness to knowledge and willingness to take risks can also be included in an assessment. Furthermore, the principles of the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG) apply. If stated voluntarily (in the CV), individual life characteristics can also be included in the assessment. These include, for example, personal, family or health-related absences or resulting longer periods of training and qualification, alternative career paths or comparable circumstances.
- (3) In supervisory and evaluation activities, the reasons for bias shall be disclosed. Possible bias or conflicts of interest shall be reported immediately to the competent body. This applies to supervisory, audit and appraisal activities.
- (4) When reviewing and assessing submitted manuscripts, funding applications or the identity of persons as well as in advisory and decision-making bodies, the participants are obliged to maintain strict confidentiality. The confidentiality of third-party content to which reviewers or committee members have access excludes disclosure to other third parties as well as personal use. Conflicts of interest or biases that could be justified in relation to the reviewed research project or the person or subject of the consultation must be reported immediately by the participants to the competent body.

§ 7 Cross-phase quality assurance and research design

- (1) Each sub-step of the research process must be carried out *lege artis*. The research process must be characterised by continuous, research-related quality assurance. This applies in particular to compliance with subject-specific standards and established methods, processes such as the calibration of equipment, the collection, processing and evaluation of research data, the selection and use of research software, its development and programming, and the maintenance of laboratory protocols.
- (2) Careful research into the current state of research as well as established standards and applications from practice must be carried out as early as the research design stage in order to identify relevant and suitable research questions based on this. The TU Bergakademie Freiberg ensures that the necessary framework conditions are in place. When interpreting the results, methods should be used that are suitable for avoiding partially unconscious bias. The importance of gender and diversity is to be examined with regard to the entire research process.
- (3) As an essential prerequisite for comparability and transferability of research results, scientifically sound and reproducible methods must be used to answer research questions. The application of a method usually requires specific

competencies, which should be covered by corresponding close cooperation, if necessary. Particularly in the development and application of new methods, special emphasis should be placed on quality assurance and the establishment of standards.

- (4) The roles and responsibilities of the scientists and scientific staff involved in a research project shall be clear at all times during a research project. The participants in a research project shall define their roles and responsibilities in an appropriate manner and adjust them if necessary. An adjustment is particularly indicated if the focus of the work of one of the participants in the research project has changed.
- (5) The legal framework conditions of a research project to be regulated also include documented agreements on the rights of use to the research data and research results derived therefrom.

§ 8 Securing and storing primary data

- (1) Primary data as the basis for publications shall be stored securely in permanent form for a period of ten years at the institution from which they originate (documentation security). TU Bergakademie Freiberg shall ensure that the necessary infrastructure and support services are available.

Primary data in this sense are raw data. Primary data are also measurement data, collections, cell cultures, material samples, archaeological finds, questionnaires and study data. Particularly scientific examinations, experiments or numerical simulations need to be described in such a way that they can be reproduced or reconstructed at other places. Access to the data has to be granted to people with a justifiable interest within the above period of time.

- (2) If the primary data are personal data – individual details about personal or factual circumstances of a specific or identifiable natural person – the characteristics with the help of which a personal reference can be established shall be stored separately. The characteristics are to be deleted as soon as the research purpose permits. In this respect, these data are to be removed from the primary data to be archived.
- (3) The scientists involved in a research project shall, as far as possible and reasonable, reach documented agreements at the earliest possible time on who has access rights to the research data and who has rights of use to them. The use of research data shall be due in particular to those who collect it.
- (4) The faculty or institute management shall be responsible for regulating and setting down in writing all further details and responsibilities, in particular for the arrangement of proper logging, the requirements for appropriate reporting standards as well as access to the original data and data storage. The institute management or the Faculty Council shall take appropriate account of the storage facilities for primary data made available by the University Computing Centre (URZ) in their decisions pursuant to § 8 paragraph 1.

In well-founded cases the institute management or the Faculty Council may determine shorter storage periods differing from § 8, Paragraph 1. The main objective of storing primary data for up to ten years is to guarantee reproducibility of scientific argumentation. This must be considered adequately

by the institute management or the Faculty Council, besides real and economic aspects.

- (5) Documentation and research results must not be manipulated. They are to be protected against manipulation in the best possible way. The loss/disappearance of primary data is an infraction of basic principles of careful scientific practice and justifies a prima facie (at first glance) assumption of dishonesty or gross negligence.

II. Criteria of scientific misconduct

§ 9 Scientific misconduct

Giving intentionally or grossly negligently false statements in a science relevant context, violating ethical norms, infringing other scientist's intellectual property, or impairing the work of others in any other way – are considered scientific misconduct. Whether a case is defined as scientific misconduct depends on the individual circumstances. Scientific misconduct includes, for example:

1. False statements

- Inventing, omitting or manipulating data that are contrary to one's own working hypothesis
- Forging data and sources, for instance by
 - o failing to acknowledge relevant sources, documents or texts,
 - o manipulating data or figures,
 - o selecting and rejecting undesired results without disclosing them
- Giving false statements about the authorship
- Giving false statements in a job application or in an application for funding (including false statements on the source of publication or about publications in press)
- Providing incorrect details about the scientific achievements of applicants to a selection or review commission

2. Infringement of intellectual property

Relating to

- work produced by another person and protected by copyrights or
- relevant scientific findings, hypotheses, theories or research concepts acquired by another party:
 - o unauthorised utilisation while untruthfully claiming to be the author or the unmarked takeover of third-party content without the required citation (plagiarism)
 - o exploitation of research methods and ideas of others, in particular as reviewer (theft of intellectual property)
 - o breach of trust as reviewer or superior

- untruthful claim of scientific authorship or co-authorship with no own scientific contribution
- falsification of content
- unauthorized disclosure of data, theories and findings to third parties
- unauthorised publication or unauthorised disclosure to third parties of a paper, finding, hypothesis, teaching or research concept which has not been published yet
- claims to the (co-)authorship in the work of another person without their agreement
- arbitrary delay of the publication of a scientific paper, in particular as an editor, reviewer or co-author.

3. Impairment of the research work of others

- Sabotaging research work of others, for example by
 - damaging, destroying or manipulating experimental set-ups, equipment, documents, hardware, software, data media, chemicals or other materials another party requires for conducting their experiments,
 - maliciously displacing or removing books, archive materials, manuscripts, data files,
 - maliciously rendering data carriers such as books, documents or other data unusable,
- violations of the rules for the documentation, archiving and use of research data, in particular their manipulation and elimination
- publicly expressing an incorrect suspicion of scientific misconduct.

4. Scientific misconduct by superiors, heads of scientific work units or project managers

- serious neglect of supervisory duties and of the quality assurance
- drafting contractual regulations or issuing official instructions that contradict the rules of good scientific practice
- abuse of power and taking advantage of dependent relationships

§ 10 Shared responsibility for misconduct

Shared responsibility for misconduct may be assumed from behaviour such as actively taking part in the misconduct of others in the sense of instigation or aiding and abetting, knowing about forgery committed by others, co-authorship in forged publications as well as gross negligence in supervisory duty.

III. Bodies to investigate allegations of scientific misconduct

§ 11 Ombudsperson

- (1) The Ombudsperson is a mediator for scientists, students and doctoral candidates regarding questions of scientific misconduct. Every member and the staff of the TU Bergakademie Freiberg has the right to speak to the ombudsperson personally in a timely manner. Alternatively, members and the staff of the TU Bergakademie Freiberg can also contact the nationally operating committee "Ombudsman for Science" ("Ombudsmann für die Wissenschaft"), which is available as an independent body for advice and support in matters of good scientific practice and its violation by scientific dishonesty (<https://ombudsmann-fuer-die-wissenschaft.de/>).
- (2) The Rector appoints a university teacher as Ombudsperson. In order to avoid conflicting interests this should be a university teacher with no leading role at the university. The Ombudsperson gets appointed for three years. Reappointment is permitted. The Rector also appoints a deputy of the Ombudsperson in case s/he is unavailable or biased.
- (3) The names and contact details of the Ombudsperson and the deputy are stated on the university's website.
- (4) The Ombudsperson/deputy is available as a confidential contact person and advisor to all persons involved in an alleged scientific misconduct.
- (5) If there is reason to doubt the impartiality of the Ombudsperson or if it is not possible to rule out s/he has to deal with the allegations due to his/her position at the university, the duties at the Commission will be assumed by his deputy. If there is a reason to doubt the impartiality of the Ombudsperson's deputy, too or if it is not possible to rule out s/he has to deal with the allegations due to his position at the university, his/her duties at the Commission will be assumed by a university teacher.

§ 12 Commission

- (1) The Rector appoints a Standing Commission to investigate allegations of scientific misconduct.
- (2) The Commission is made up of three university teachers and one person from the group of teaching and research assistants. The members belong to different faculties, representing the fields of natural science, engineering and business administration. The Ombudsperson and his/her deputy are advisory members of the Commission. The members of the Commission are stated on the university's website.
- (3) The term of office of the members of the Commission is three years and can be renewed once. The Commission elects one of its members as chairperson. Decisions are made by a simple majority, in case of a tie of votes, the chairperson casts the deciding vote. The Commission convenes at the request of the Ombudsperson or one of its members and generally convenes once per semester. The Commission holds its meeting in private. The Commission reports to the Rector annually.
- (4) If there is a reason to doubt the impartiality of a member of the Commission or if it is not possible to rule out s/he has to deal with the allegations due to his

position at the university his/her duties at the Commission will be assumed by a replacement member who is appointed by the Rector.

IV. Guidelines on dealing with allegations of scientific misconduct

The procedure comprises two phases: The investigation phase and the enquiry phase. The events and results of both phases must be recorded in a protocol. The procedures for dealing with allegations of academic misconduct described in these Regulations must be carried out before the case is referred to the relevant faculty for investigation or onward referral. The investigation of allegations of academic misconduct must be carried out explicitly in compliance with confidentiality and the principle of presumption of innocence.

§ 13 Acceptance of allegations

- (1) The suspicion of scientific misconduct can be brought to the attention of the ombudsperson by members and staff of the university or by third parties if it concerns suspected cases against members and staff of TU Bergakademie Freiberg or persons working scientifically here.
- (2) Reports of suspected cases must be made in good faith. Deliberately incorrect and wilfully-made allegations can themselves justify scientific misconduct.
- (3) Suspicions should be put down in writing specifying the incriminating facts and evidence. Oral notifications are to be recorded by the Ombudsperson including the facts and evidence suggesting misconduct.
- (4) The Ombudsperson assesses anonymous reports. S/he is not obliged to investigate anonymous reports. In general, an appropriate investigation requires the whistle-blower's name. The Ombudsperson may investigate anonymous reports on scientific misconduct, if they appear plausible and the incriminating facts and evidence supporting the suspicion are specified.
- (5) If the suspicion of scientific misconduct is reported to a body other than the ombudsperson, which is not a regular examination body, it is recommended to contact the ombudsperson.

§ 14 Dealing with whistle-blowers

- (1) People who report suspicions of scientific misconduct, should not experience any disadvantage for their own academic and professional advancement. Particularly for young scientists such a report should not lead to delays and obstructions during their training; the work on degree theses and doctoral theses/habilitation theses must not be subject to disadvantages. This is also true of working conditions and possible work contract extensions.
- (2) Whistle-blowers play a vital role for the autonomy of science. The Ombudsperson as well as the other units/bodies in charge of investigating suspicions have to protect whistle-blowers in a suitable manner.
- (3) The report has to be filed in good faith. Allegations may not be issued without proper examination and knowledge of the facts. Issuing unexamined and deliberately false allegations are themselves a form of scientific misconduct.

- (4) Confidentiality protects both the whistle-blower as well as the person who is accused of misconduct. Therefore, both the ombudsperson and the members of the permanent commission investigating allegations of scientific misconduct, are, even after the end of their activities, obliged to maintain secrecy about the identity of the whistle-blowers and the accused persons, as well as about circumstances that allow conclusions to be drawn about these persons.

§ 15 Inquiry

- (1) The first phase of the procedure (inquiry) serves to ascertain a factual basis for judging whether or not an allegation is well founded.
- (2) The inquiry is led by the Ombudsperson. It ensures confidentiality of information about both the accused and the person making the allegations.
- (3) The Ombudsperson collects all available facts about what has happened related to the allegations made and examines the allegations for plausibility in regard to correctness and importance, possible motives and the possibility of clearing the allegations. All incriminating and exonerating facts and evidence must be documented in writing.
- (4) The first phase ends with the decision whether the allegation has been confirmed and therefore requires further investigations, or whether it has proved irrelevant.
- (5) In case of concrete suspicious facts for scientific misconduct the Ombudsperson will communicate allegations of scientific misconduct to the Commission in the strictest confidence to protect both the whistle-blower and the person involved.

§ 16 Investigation

- (1) The second phase (investigation) of the procedure includes the statement of the person concerned and additional inspections, in particular the taking of evidence, the decision and formal declaration that misconduct has or has not occurred, and finally the reaction to a confirmed allegation.
- (2) The person charged with the allegation of misconduct shall be given the opportunity to comment immediately on the incriminating charges and evidence laid against him/her within a certain period of time – usually four weeks – determined by the Commission. During this procedure, the Commission shall not disclose the whistle-blowers names to the person concerned without the whistle-blower's consent. The person concerned must be instructed about his or her rights and obligations and also about the possible consequences of not fulfilling the obligations.
- (3) Within two weeks of receiving the statement of the person concerned or once the deadline for statements has passed, the Commission shall decide whether the procedure should be stopped as the allegations were not confirmed or an alleged misconduct was solved completely, or whether the investigation will be continued. The person concerned must be informed in writing of the decision and the whistle-blowers must be informed of the termination of the procedure within two weeks, stating the reasons. The decision will be communicated to the Rectorate and the ombudsperson by the chairman of the commission, stating the reasons. In case the whistle-blowers do not agree to the

discontinuation of the procedure they may go to see the Commission within two weeks and the Commission will review its decision.

- (4) If the investigation is continued the Commission may call in experts from the scientific field related to the case and experts who are experienced in dealing with such cases as advisory members (maximal 3).
- (5) The Commission examines in free argumentation of the evidence whether it is scientific misconduct. The person accused of misconduct shall be given the opportunity to comment at any time. The person who is accused of misconduct may request an oral hearing. In such an instance the latter is entitled to have an advisor of his choice present. This is also true for other persons who need to be heard.
- (6) To disclose the name of the whistle-blower is permissible, if the accused is otherwise not able to defend himself appropriately. This may be the case if the creditability and motives of the whistle-blower have to be checked in regard to the allegations of possible misconduct.
- (7) Until culpable misconduct is proven, strict confidentiality must be observed concerning the parties involved as well as the findings reached.
- (8) The Commission refers its results to the Rectorate with a proposal on how to continue, particularly in respect to the protection of the rights of third parties, and a decision. If the results may influence the conferring or revocation of academic degrees, the Commission will pass on the results of their investigation to the Dean of the responsible faculty for further action.

§ 17 End of procedure and sanctions

- (1) The sanctions for scientific misconduct depend on the circumstances in each individual case.
- (2) Within its area of responsibility, the Rectorate decides on the termination of the procedure and the measures to be taken, considering the nature and the severity of the misconduct in each individual case taking into account the protection and operational capability of science. The measures are described in the Part V, §19 of these Regulations but are not exhaustive.
- (3) The person concerned and the whistle-blower are informed in writing of the decision and the main reasons for the decision by the Rector.

§ 18 Further measures, duration of the procedure, keeping records

- (1) The Ombudsperson advises the persons, in particular the young scientists and students who have become involved in scientific misconduct processes through no fault of their own, with regard to the safeguarding of their personal and scientific integrity.
- (2) The procedure should be accomplished within a time period that does justice to the protection of confidence of science in the public. As a rule, inquiry and investigation should not last more than six months.
- (3) The inquiry and investigation records must be kept for 30 years.

V. Possible decisions and sanctions in cases of scientific misconduct

§ 19 Measures in the event of scientific misconduct

- (1) Since each case of scientific misconduct is different and the severity of the scientific misconduct found also plays a central role in the respective decision, there is no uniform guideline for the appropriate consequences in each case. The decision on which measure to take in cases of scientific misconduct depends on the circumstances of the individual case. The following measures can be considered:
- In less serious cases, a rebuke or an aggravated rebuke can be issued by the Rector.
 - Sanctions relating to the employment status may include, in particular, letter of warning, extraordinary termination, ordinary termination, termination of contract or removal from employment.
 - Consequences under civil law can be, in particular, the issuing of a ban on entering the house/university property, claims for return of items against the person concerned, such as with regard to stolen scientific material, claims for removal and injunctive relief arising from copyright law, right of personality, patent law and competition law, claims for reimbursement (such as scholarships, third-party funding and the like) or claims for damage of the TU Bergakademie Freiberg.
 - Academic sanctions can be initiated at different levels and with different objectives.
 - a) intra-university: Revocation of academic degrees if they are based on scientific misconduct or were otherwise obtained fraudulently, in accordance with the relevant doctoral degree, habilitation degree or examination regulations, or revocation of the license to teach,
 - b) non-university scientific institutions and associations: Such institutions must be informed about scientific misconduct in any case if these are directly affected by it or if the scientist concerned holds a managerial position or, as in the case of funding organizations, participates in decision-making bodies,
 - c) Withdrawal from scientific publications.
 - Consequences under criminal law can be considered if there is a suspicion that scientific misconduct simultaneously constitutes an offense under the Criminal Code or other criminal norms or constitutes a misdemeanour, as is the case in particular with infringement of copyright, falsification of documents (including falsification of technical records), damage to property (including manipulation of data), offences against property and assets (as in the case of theft, obtaining of funds by fraud or embezzlement), violations of personal privacy (such as by spying on data or exploiting someone else's secrets), injury to life or body (such as of test persons as a result of false data)
- (2) Whether and to which extent a criminal complaint is to be filed by the TU Bergakademie Freiberg in such a case remains subject to the dutiful judgment of the Rector.

- (3) The applicable rules of the examination, doctoral degree and habilitation degree regulations remain unaffected by this.

VI. Final Clause

§ 20 Entry into force, Expiration

This regulation comes into force on the day after publication in the *Official Announcements (Amtliche Bekanntmachungen)* of TU Bergakademie Freiberg. At the same time the *Guidelines on safeguarding good scientific practice and on handling scientific misconduct at Technische Universität Bergakademie Freiberg* of 3 March 2015 (Official Announcements of TU Bergakademie Freiberg No 8 of 19 March 2015) cease to be in force.

Freiberg, 19 January 2021

signed

Prof. Dr. Klaus-Dieter Barbknecht

Rector

Publisher : The Rector of TU Bergakademie Freiberg

Editor: Vice-Rector of Research and Transfer, Graduate and
Research Academy, University Legal Advisor

Address: TU Bergakademie Freiberg
Akademiestraße 6
09596 Freiberg

Printing: Media Centre of TU Bergakademie Freiberg

This English version is intended to assist students, doctoral candidates and employees who may find it difficult to understand the original German one. If there is any contradiction between this translation and the German text of these regulations, then the German text (Official Notification No. 2 from 20th of January 2022) is to be regarded as authoritative.