

**Regulation to
ensure good academic practice
and for dealing with academic misconduct
at the Bundeswehr University, Munich
(OSiGWIP)**

February 2017

IMPORTANT NOTE:

This is only the english version of the original regulation to ensure good academic practice and for dealing with academic misconduct at the Bundeswehr University, Munich. Legally binding are the original german regulations.

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of 1 February 2017

With reference to the recommendations by the Deutsche Forschungsgemeinschaft (German Research Foundation) on ensuring good academic practice and its rules of procedure for dealing with academic misconduct, the Bundeswehr University, Munich hereby issues the following regulation in accordance with Section 11 (2) No. 5 of the General Regulations on the Structure and Organisation of the Bundeswehr University, Munich:

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Preamble

¹The Bundeswehr University, Munich undertakes to ensure compliance with the rules of good academic practice and to convey these rules to its students and junior academics. ²Academic work is based on a set of principles that apply equally to all academic disciplines. ³Academic work is designed to facilitate the quest for new knowledge and for the dissemination of the knowledge gained. ⁴It is governed by the principle of honesty on the part of academics, towards themselves and others. ⁵Academic misconduct constitutes a breach of these principles. ⁶To be able to fulfil its responsibility in the areas of research, teaching and the advancement of junior academics, the Bundeswehr University, Munich hereby adopts this regulation in which the principles of good academic practice are formulated and measures for dealing with academic misconduct are set out.

Part 1 Scope

§ 1 Scope

(1) ¹This regulation shall apply to all members of the Bundeswehr University, Munich and to all those undertaking academic and research work, including students, at the Bundeswehr University, Munich. ²This regulation shall also continue to apply to members of the aforementioned group of persons who are no longer associated with the Bundeswehr University, Munich but who are the subject of an allegation of academic misconduct relating to their work at the Bundeswehr University, Munich.

(2) ¹The proceedings governed by this regulation shall neither replace nor hinder other proceedings governed by law or statute (e.g. academic proceedings, regulatory proceedings, proceedings under employment law or civil service law or under civil or criminal law). ²The responsible authorities or the persons concerned will decide whether to initiate proceedings.

Part 2 Good academic practice

§ 2 Rules of good academic practice

The rules of good academic practice include in particular the requirement that those undertaking academic and research work shall

- work according to the standard rules ("lege artis"),
- observe ethical standards and legal provisions (e.g. on data protection), particularly with regard to the conduct of surveys and experiments,
- the documentation of findings and the
- saving and storing of findings (cf. Section 5),
- consistently analyse their own work in a self-critical manner,

- ensure the presentation of research findings in a way that enables them to be verified,
- refrain from making false claims to academic authorship or co-authorship and maintain absolute honesty regarding the contributions of others,
- respect intellectual ownership on the part of others and provide appropriate references when using someone else's text or ideas,
- not obstruct others in their academic work,
- ensure that originality and quality, as the criteria for performance and evaluation, always prevail over quantity,
- assume leadership responsibility in study groups and strengthen trustful (academic) cooperation; the responsibility of each undertaking academic work shall remain unaffected,
- provide junior academics with appropriate support and
- familiarise students and junior academics with the rules of good academic practice.

§ 3

Supervision of junior academics

¹Those new to academic work do not only have to assimilate technical skills but must also acquire and convey fundamental ethical values in relation to performing academic work, handling findings in a responsible manner and working together with other researchers.

²Students and junior academics are entitled to regular academic counselling and support by supervisors or academics in charge of subject areas/study groups. ³They for their part are obliged to show responsibility in their work and cooperativeness in their dealings with colleagues. ⁴Academics in charge of a particular subject area/study group shall be responsible for ensuring the appropriate supervision of students, doctoral candidates and graduates.

⁵Doctoral projects shall be structured in line with the doctoral charter of the Bundeswehr University, Munich.

§ 4

Authorship

An author is defined as someone who has made a substantial and independent contribution to an academic publication.

§ 5

Saving and storing of data

Important data which form the basis for publications shall be stored on a durable and secure data carrier in the institution in which it was generated for a period of ten years unless special regulations stipulate a different storage period.

§ 6

Promotion of good academic practice

¹Good academic practice can only be implemented through cooperation between all those concerned. ²The Bundeswehr University, Munich shall thus ensure that all members of the Bundeswehr University, Munich, all those undertaking academic and research work at the University of the Bundeswehr, Munich and the University's students are familiar with the rules of good academic practice and shall take suitable measures to promote good academic practice. ³The conveyance of these rules, notably to students and junior academics, is particularly incumbent on all faculties and all academics, especially superiors, heads of department, study group leaders, project managers and those responsible for supervising academic work. ⁴Exemplary behaviour with regard to academic practice shall be expected of study group leaders. ⁵All those undertaking academic and research work shall be personally responsible for compliance with the rules of good academic practice as appropriate to their particular role.

Part 3

Academic misconduct

§ 7

Academic misconduct

In the context of academic work, the following actions in particular constitute academic misconduct:

1. intentionally, or by reason of gross negligence, providing false information, e.g. by
 - a) inventing or falsifying data or sources,
 - b) manipulating images,
 - c) supplying false information in letters of application, applications for funding or in connection with the assessment of academic work or by
2. violating intellectual property rights with regard to copyrighted works of other authors or to major scientific findings, hypotheses, theories or research methods of others using means such as
 - a) plagiarism,
 - b) stealing ideas,
 - c) making false claims to or refusing to acknowledge (co)authorship
 - d) unauthorised publication,
 - e) falsifying the content of publications
3. otherwise impeding the research work of others by, for example,
 - a) seriously discrediting others by making false allegations about academic work and/or other individuals – carelessly, or in particular, wilfully making allegations of

academic misconduct may also constitute a form of academic misconduct – or by

b) sabotaging, destroying and/or manipulating experimental setups, equipment, documents, software, chemicals or other items and substances,

4. intentionally eliminating data (cf. Section 5) if this constitutes the intentional violation of legal provisions or acknowledged principles of academic work in the discipline concerned.

§ 8 Complicity

Complicity in misconduct includes active involvement in misconduct by others and the toleration of academic work known to involve fraud.

Part 4 Ombudsperson, Commission for the Investigation of Academic Misconduct, Proceedings

§ 9 Ombudsperson

(1) ¹Taking into account the proposal put forward by the Extended University Management, the Management Committee shall appoint an Ombudsperson and a Deputy Ombudsperson from the University's professorial staff. ²They shall act as points of contact for allegations of academic misconduct and for allegations of serious violations of the duty to ensure the supervision of junior academics as established in Section 3, second sentence. ³The term of office of the Ombudsperson and of his/her Deputy shall be two years. ⁴Reappointment is possible.

(2) The Deputy Ombudsperson is called upon in particular in cases where there is a conflict of interests on the part of the Ombudsperson or if he/she is indisposed; the Deputy Ombudsperson may also be called upon directly without reasons being given.

(3) The function of Ombudsperson or Deputy Ombudsperson is incompatible with the office of Vice President or that of Dean.

(4) Details of the Ombudsperson and the Deputy Ombudsperson shall be appropriately made known to all members of the University.

§ 10

Remit of and recourse to the Ombudsperson

(1) ¹The Ombudsperson's remit is to act as a point of contact whom those involved in cases of suspected academic misconduct can approach in confidence for support. ²He/she will advise those who inform him/her (the informants) of suspected academic misconduct by a third party. ³At their request, he/she will also advise the person accused of academic misconduct (the respondent).

(2) ¹The Ombudsperson will investigate instances of suspected academic misconduct at the Bundeswehr University, Munich and allegations thereof. ²Recourse to the Ombudsperson or his/her Deputy for the purpose of exposing suspected academic misconduct at the Bundeswehr University, Munich shall be open to anyone. ³Anonymous information shall not be investigated.

(3) The Ombudsperson will verify the extent to which the suspicions of misconduct appear plausible and to which they can be substantiated.

(4) ¹The Ombudsperson is bound to confidentiality. ²Protecting all those concerned shall have priority.

(5) In the case of a suspected or alleged serious violation of the duty to ensure the supervision of junior academics as established in Section 3, second sentence, paragraphs 1 to 4 shall apply accordingly.

§ 11

Ombudsperson procedure

(1) ¹The Ombudsperson shall establish a factual basis for evaluating the allegations or instances of suspected academic misconduct brought to his/her attention. ²He/she shall maintain confidentiality to protect the informant and the respondent.

(2) ¹In cases where a concrete instance of suspected academic misconduct can be established in accordance with paragraph 1, first sentence, the Ombudsperson shall ask the respondent to comment on this suspected academic misconduct within a reasonable period of time, while carefully weighing the need to protect the interests of informants and those of the respondent. ²The identity of the informant shall remain confidential. ³The disclosure of the informant's identity to the respondent may be necessary in cases where otherwise, he/she would not be able to properly defend himself/herself. ⁴Where there is reason to suspect serious academic misconduct and where there is a risk that severe damage to the Bundeswehr University, Munich, its members or third parties could result, the Ombudsperson shall inform the President and the Dean of the faculty concerned.

(3) ¹Upon receipt of the response by the respondent or in the case of no response being received by the deadline in accordance with paragraph 2, first sentence, the Ombudsperson shall decide within a reasonable period of time whether the Ombudsperson procedure should be discontinued on the grounds of there being insufficient evidence to corroborate the suspected misconduct or because the allegation has been fully resolved or whether the case must be referred to formal inquiry proceedings. ²The reasons for the decision shall be stated in writing and notification provided to the respondent and the informant. ³The informant shall

not be provided with notification of the reasons if this is absolutely necessary for protecting the rights of the respondent.

(4) ¹The Ombudsperson shall at all times endeavour to mediate between the parties to the proceedings. ²In cases where mediation between the parties to the procedure leads to the mutual settlement of the allegation, the procedure will be discontinued and documented by the Ombudsperson.

(5) ¹In cases where the procedure is not discontinued in accordance with paragraph 3, first sentence, first alternative, or paragraph 4, the case shall then be referred to formal inquiry proceedings. ²The formal inquiry proceedings are initiated by the Ombudsperson's submission of the complete documents and his/her opinion on the allegation to the Commission for the Investigation of Academic Misconduct in accordance with Section 12; the Ombudsperson will notify the respondent and the informant accordingly.

(6) ¹If the informant disagrees with the Ombudsperson's decision to discontinue the case, he/she may within two weeks exercise his/her right to be heard by the Ombudsperson, who will subsequently review his/her decision. ²If the Ombudsperson chooses to uphold his/her decision, he/she will notify the informant accordingly and inform him/her of the possibility of recourse to the Commission for the Investigation of Academic Misconduct in accordance with Section 12.

(7) In the case of a suspected or alleged serious violation of the duty to ensure the supervision of junior academics as established in Section 3, second sentence, paragraphs 1 to 6 shall apply accordingly.

§ 12

Commission for the Investigation of Academic Misconduct

(1) ¹Taking into account the proposal put forward by the Extended University Management, the Management Committee shall appoint a Commission for the Investigation of Academic Misconduct (Commission); the Extended University Management's proposal regarding the representative of the non-professorial academic staff shall be based on the proposal put forward by the Council of Research Assistants. ²The Commission shall be staffed by five members of the professorial staff of the Bundeswehr University, Munich, of whom at least one must be qualified to hold judicial office, and by a representative of the non-professorial academic staff. ³The Ombudsperson and his/her Deputy shall be advisory members of the Commission.

⁴The term of office of the Commission members shall be two years. ⁵Reappointment of Commission members is possible. ⁶The Commission shall adopt rules of procedure.

(2) ¹The Commission may also include, as advisory members, other persons with particular expertise in the field to which the alleged academic misconduct to be decided pertains or persons with experience of similar proceedings. ²If a student is involved in the case to be decided, a students' representative will be included.

(3) ¹In the case of a conflict of interests on the part of a Commission member, the Law on Administrative Proceedings shall apply accordingly. ²Details are specified in the rules of procedure.

(4) Section 9(3) and Section 9(4) shall apply accordingly.

§ 13

Remit of the Commission for the Investigation of Academic Misconduct

(1) ¹The Commission shall investigate allegations of academic misconduct against the persons described in Section 1(1). ²It shall initiate formal inquiry proceedings at the request of the Ombudsperson or his/her Deputy in accordance with Section 11(5), second sentence. ³In cases where alleged academic misconduct is otherwise brought to the attention of the Commission, it will notify the Ombudsperson without delay and in the first instance refer the matter to him/her.

(2) ¹All persons concerned in the proceedings and those notified thereof shall be bound to confidentiality. ²The identity of the informant shall remain confidential.

(3) In the case of a suspected or alleged serious violation of the duty to ensure the supervision of junior academics as established in Section 3, second sentence, paragraphs 1 and 2 shall apply accordingly.

§ 14

Formal inquiry proceedings

(1) ¹The Commission shall inform the President and the Dean of the faculty concerned of the opening of formal inquiry proceedings. ²The President shall notify the Commissioner for Bundeswehr Universities of the opening of formal inquiry proceedings and will subsequently inform him/her of the Commission's decision and of any action taken.

(2) ¹The Commission will establish the facts and, on the basis of the free evaluation of evidence, will investigate whether academic misconduct has occurred. ²If necessary, it can obtain expert reports and opinions and invite expert witnesses to oral hearings. ³The Commission shall provide informants with the opportunity to submit a written statement and/or to attend an oral hearing. ⁴Any persons appearing before an oral hearing shall have the right to representation. ⁵The minutes of the hearing will be taken.

(3) ¹The Commission will give the respondent the opportunity to provide a statement. ²He/she will be provided with details of the incriminating facts and evidence. ³At his/her request, the respondent shall be heard at an oral hearing. ⁴Section 11(2), third and fourth sentences shall apply accordingly.

(4) In the case of a suspected or alleged serious violation of the duty to ensure the supervision of junior academics as established in Section 3, second sentence, paragraphs 1 to 3 shall apply accordingly.

§ 15

Conclusion of the formal inquiry proceedings

(1) ¹If the Commission finds the allegation of academic misconduct not proven or disproven, it shall discontinue the proceedings. ²It shall provide both the respondent and the informant as well as the President and the Dean of the faculty concerned with written notification of the discontinuation of the proceedings stating the reasons thereof. Section 11(3), third sentence shall apply accordingly.

(2) ¹If the Commission finds the allegation of academic misconduct proven, it will submit a written report to the President and the Dean of the faculty concerned. ²The report will contain the reasoned findings of the inquiry conducted by the Commission. ³In addition, the Commission will make a reasoned recommendation for further action, also with regard to protecting the rights of third parties. ⁴It will notify the respondent of the outcome of its inquiry stating the reasons in writing. ⁵Notification of the outcome will also be provided to the informant in so far as consistent with protecting the rights of the respondent. ⁶In cases where the Commission establishes that the allegation of academic misconduct could lead to an academic award being declared invalid or withdrawn, to the termination of postdoctoral studies or to the revocation of the qualification/authorisation to teach at university level, it will inform the respondent without delay that the faculty responsible for him/her will make the final decision.

(3) There is no right of complaint against decisions made by the Commission.

(4) In the case of a suspected or alleged serious violation of the duty to ensure the supervision of junior academics as established in Section 3, second sentence, paragraphs 1 to 3 shall apply accordingly.

§ 16

Consequences of academic misconduct

(1) ¹The President shall submit the Commission's report to the Management Committee. ²In cases where Section 15(2) applies, the Management Committee will decide on the need for further action which, if appropriate, it will initiate. ³Examples of possible action are listed in the annex.

(2) ¹The responsible faculty will consider the need for academic consequences in accordance with Section 15(2), sixth sentence and, where this is the case, will initiate an appropriate procedure. ²In consultation with the Commission, the faculty shall decide whether this procedure should be suspended until the Commission has concluded its formal inquiry proceedings. ³The faculty is bound by neither the Commission's decision nor by the recommendation contained in its report.

(3) Together with the faculty concerned, the Management Committee may consider whether academics, academic institutes, academic journals or publishing houses (in the case of publications), funding bodies, academic organisations, professional associations, the expert community and the public should or must be informed in individual cases where this appears appropriate.

(4) The Ombudsperson shall counsel those, especially junior academics and students, who through no fault of their own have become involved in events connected with academic misconduct, on protecting their personal and academic integrity.

(5) In the case of a serious violation of the duty to ensure the supervision of junior academics as established in Section 3, second sentence, paragraphs 1 to 4 shall apply accordingly.

Part 5

Final provisions

§ 17

Entry into force

This regulation shall enter into force the day following its promulgation.

Prepared on the basis of the decision of the Senate of the Bundeswehr University, Munich dated 8 August 2016¹, the declaration of consent by the Bavarian State Ministry for Education, Science and the Arts in a letter dated 29 November 2016 (reference number VII.6-H6113.0/2/2) and of the declaration of consent by the Federal Ministry of Defence in a letter from FMoD Branch PI5 dated 5 December 2016 (reference number 38-01-00).

Neubiberg, 1 February 2017

Bundeswehr University, Munich
Professor Dr Merith Niehuss
President

The statute was established at the Bundeswehr University, Munich on 1 February 2017. The statute's establishment was announced on the bulletin board of the Bundeswehr University, Munich on 8 February 2017. The day of promulgation to the members of the University was 8 February 2017.

¹ The decision of the Senate does not refer to Section 14(1), second sentence, which is based on a condition set by the FMOD.

Annex 1: Possible action in the event of academic misconduct

Since each case of academic misconduct is unique, particularly in its nature and severity, only examples of appropriate action can be provided.

In accordance with Section 16(1), the following action may be taken:

1. Disciplinary action under employment law, including in particular:
 - written warning,
 - summary dismissal (including dismissal on the grounds of suspicion),
 - termination of employment with notice and
 - dissolution of contract;

2. Disciplinary action under civil service law, including disciplinary measures;

3. Action under civil law, including in particular:
 - bans from entering the premises,
 - claims against the respondents, for example for the restitution of stolen academic material,
 - claims for abatement and removal and for injunctive relief under the laws governing copyright, personality rights, patent rights and competition rules,
 - repayment claims, e.g. in respect of grants, third party funding or the like, and
 - claims for damages by the Bundeswehr University, Munich or third parties in the case of personal injury, damage to property or the like;

4. Action under criminal law, e.g. in the case of:
 - infringement of copyright,
 - forgery of documents (including technical records),
 - criminal damage (including data tampering),
 - offences against property (such as theft, obtaining funding under false pretenses or embezzlement),
 - violation of privacy (e.g. data espionage or exploitation of the secrets of another) and
 - causing injury to life or limb (e.g. to test subjects due to erroneous data).