

## **Statutes for Safeguarding Good Research Practice**

Freie Universität Berlin

*Bindend ist allein die deutschsprachige Fassung / only the German version is binding.*

Developed on the basis of the Deutsche Forschungsgemeinschaft's (German Research Foundation, DFG) code of conduct "Guidelines for Safeguarding Good Research Practice" from July 3, 2019, and in accordance with the German Rectors' Conference model statutes for safeguarding good research practice and dealing with cases of suspected research misconduct from May 10, 2022.

On the basis of Sections 9.1.4 and 9.1.5 of Freie Universität Berlin's supplemental rules and regulations (*Teilgrundordnung*), published in *FU-Mitteilungen* No. 24/1998 (the official bulletin of Freie Universität Berlin), the Academic Senate issued the following statutes on October 18, 2023:

CONTENT:

Part I Preamble and Scope

Part II Rules of Good Research Practice

Part III Committees and Advisory Bodies

Part IV Ombudspersons and Investigative Procedure

Part V Final Provisions

### **Part I Preamble and Scope**

#### **Preamble**

In order to acquire sound scientific knowledge and ensure public trust in academia and its representatives, it is vital that certain rules surrounding good research practice are upheld. As centers of research and education, and in their function of promoting early-stage researchers, universities are committed to upholding the highest scientific and ethical standards. Due to its core values, "veritas, iustitia, libertas," Freie Universität Berlin considers itself particularly committed to upholding scientific integrity and actively works toward preventing and raising awareness of research misconduct across all departments and career levels.

In these statutes, Freie Universität Berlin sets out binding guidelines to safeguard good research practice along with a procedure for examining and dealing with research misconduct.

#### **Section 1 Scope**

(1) These statutes apply to everyone who carries out research activities at Freie Universität Berlin. This includes all members of Freie Universität Berlin under the Berlin Higher Education Act (*Berliner Hochschulgesetz, BerIHG*), all recipients of scholarships at Freie Universität Berlin, all extended members of Freie Universität Berlin, and all emeritus professors at Freie Universität Berlin who are still actively teaching and/or researching, hereinafter all called "researchers."

(2) These statutes also apply to former researchers of Freie Universität Berlin if the suspected case of research misconduct occurred at a time when the person concerned was a researcher at Freie Universität Berlin as defined in Section 1.1.

(3) All researchers are obliged to observe the rules of good research practice. Purely administrative activities and examination matters are excluded from the scope of these statutes.

(4) Cases of abuse of power and taking advantage of dependencies are only governed by these statutes if they also constitute research misconduct (see Section 14.6). The handling of further cases of abuse of power and cases of sexualized discrimination, harassment, and/or violence is covered by separate statutes and guidelines of Freie Universität Berlin.

## **Part II Rules of Good Research Practice**

### **Section 2 Basic principles**

All researchers are obliged to observe the following basic principles of good research practice:

- Observing the general principles of academic and scientific work (“lege artis”)
- Observing special rules for individual disciplines
- Be willing to consistently question all findings, including one’s own
- Facilitate and encourage a critical discourse in the scientific community
- Be honest about your own contributions and contributions others have made

### **Section 3 Prevention**

(1) All researchers at all career levels are required to regularly update their knowledge of the standards of good research practice and the state of research. The management should take appropriate measures to ensure that employees are able to do this as part of their work.

(2) Students, doctoral students, and early-stage researchers at Freie Universität Berlin shall be instructed in good research practice at the beginning of their studies and at regular intervals thereafter. Regulations in relation to degree programs and examinations will set out the skill areas and course content that are aimed at safeguarding good research practice in a transparent manner in accordance with the relevant levels of the German Qualifications Framework. All doctoral students should have attended at least one course on good research practice.

(3) Experienced and early-stage researchers shall support each other in a continual learning and improvement process, communicating regularly and participating in any training made available in this area.

(4) The Coordination Office for Research Integrity provides information on a regular basis about the rules of good research practice and suitable training courses. Furthermore, the Coordination Office supports the teaching units in developing courses on good research practice.

#### **Section 4 Leadership responsibilities and research collaborations**

- (1) The Executive Board of Freie Universität Berlin is responsible for ensuring the basic conditions necessary for conducting academic work and upholding good research practice.
- (2) The Executive Board is supported in this by the Coordination Office for Research Integrity, which reports to the Executive Board at least once a year about the status of good research practice at Freie Universität Berlin.
- (3) The head of a research group is responsible for the whole unit. The unit should be organized so that it can perform its tasks as a complete group. Above all, this includes collaboration and coordination of members (e.g., regular joint meetings on current work; coordination of junior scientists).
- (4) The members of a research group are aware of their roles, rights, and obligations, and there is a clear definition of tasks for all persons involved in research projects, in particular when the parameters or basic conditions change.
- (5) The group head's tasks involve guaranteeing the appropriate, individual supervision of early-stage researchers as well as the career advancement of research staff. The acceptance of doctoral candidates is an obligation to provide academic supervision. The obligation to provide supervision includes, in particular, offering doctoral candidates regular academic advice on their doctoral projects, promoting the preparation of final and qualification theses within a reasonable time frame, and reviewing these theses within a reasonable period of time. The relevant doctoral regulations govern further details.
- (6) Abuse of power and taking advantage of dependencies are to be prevented with suitable measures (e.g., supervision agreements, suitably sized and organized work groups, regular training courses on tasks and responsibilities for persons with management and supervisory functions, regular information about supervision offers).
- (7) In the selection of staff and staff development, the respective valid guidelines or statutes for equity, diversity, equal opportunities, and antidiscrimination, as well as the relevant procedural guidelines and rules of Freie Universität Berlin apply. The corresponding processes are transparent and avoid unconscious bias as far as possible.

#### **Section 5 Performance dimensions and assessment criteria**

- (1) A multidimensional approach is taken in the performance assessment of researchers. In addition to the scientific performance, further aspects can be taken into consideration (e.g., commitment to teaching, participation in academic committees, and support of knowledge and technology transfer).
- (2) The performance assessment is carried out above all qualitatively and is oriented to discipline-specific criteria as well as – if specified on a voluntary basis – taking special individual factors into account (family- or health-related absences or prolonged training or qualification periods resulting from such absences, as well as alternative career paths and comparable personal circumstances). Quantitative factors can be covered in the overall assessment in a differentiated way. Evidence-based measures are taken to counteract unconscious bias in the performance assessment.

## **Section 6 Confidentiality and bias in committees and in assessment reports**

- (1) All researchers who assess the manuscripts, funding applications, credentials of persons, or other scientifically relevant facts are obliged to strict confidence in this regard. The confidentiality requirements also include not disclosing to third parties any content that is obtained as part of a person's access to said content in this capacity and not using the content for personal purposes.
- (2) Members of (advisory) committees, for whom a perceived conflict of interest exists, may not take part in administrative procedures. Concerns about bias can usually be assumed if there is reason to doubt the impartiality of a person due to personal, professional, economic, or other grounds. Criteria that could represent concerns of bias are set out in Sections 20 and 21 of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz, VwVfG*).
- (3) Members of (advisory) committees are to openly present all facts that could back up the concerns of bias immediately to the responsible office.
- (4) All bylaws, guidelines, and information for (advisory) committees and commissions at Freie Universität should contain specific regulations on dealing with bias and confidentiality.

## **Section 7 Cross-phase quality assurance**

- (1) In the planning and performance of all research projects, the current state of research in the field is to be taken into consideration and acknowledged as well as extensive research carried out into findings that are already available.
- (2) In all research projects, scientifically founded and comprehensible methods need to be applied. Where new methods are developed and applied, it is especially important to ensure that quality standards are maintained and that, if necessary, new standards put in place, in order to ensure that any findings remain useful and comparable in the future.
- (3) To avoid (unintentional) misinterpretations, all relevant factors and basic conditions should be taken into consideration when interpreting investigative findings. Methods for blinding experimental trials are to be used if they are seen as scientifically worthwhile according to standards for the respective field and the implementation of such methods is generally possible.
- (4) In all research projects, the relevance of gender and diversity is to be assessed and accordingly taken into consideration with regard to the goals, questions, methods, and work steps of the project.

## **Section 8 Legal and ethical parameters**

- (1) All researchers are obliged to observe legal standards and institutional regulations as well as to fulfill obligations resulting from agreements with third parties. The administrative departments of Freie Universität Berlin support scientists in complying with such regulations through providing regular and up-to-date information and advice.
- (2) All researchers are to proactively and critically examine the ethical aspects of research projects and assess the impact and possible negative consequences of their research.
- (3) The ethical codes of the relevant professional and academic associations must be observed, and where necessary, an official ethics statement and approval of the relevant ethics committee(s)

must be obtained. Freie Universität Berlin's Central Ethics Committee and departmental ethics committees play a central role in obtaining such statements/approvals and in supporting researchers in this area.

## **Section 9 Usage rights**

- (1) Regulations on rights to use research results are to be produced at the earliest possible date and documented in writing.
- (2) Subject to other legal (in particular the German Employee Inventions Act [ArbnErfG] and the German Act on Copyright and Related Rights [UrhG]) or contractual regulations, the researchers who produced the research findings are entitled to the usage rights for research findings. The completion of a professional qualification or degree must be made possible.

## **Section 10 Handling research data and archiving**

- (1) Primary data and research outcomes, along with the materials on which they are based and, where applicable, research software used must be stored for an appropriate amount of time in the institution where they were produced or in repositories available to all the institutions involved in the research project. Subject to further regulations, this covers ten years from publication of the data (or the work in question) or after completion of the project.
- (2) The respective departments and heads of the research groups are responsible for storage (e.g., laboratory books, device calibration, analysis of research data, or research software). The researchers have to make sure that the research data they generate are made available to the respective departments or heads of research groups in a suitable form.
- (3) If the documentation of research findings does not meet the corresponding (subject) requirements, the limitations and reasons for this are to be clearly explained.
- (4) If necessary, research data are deleted after consulting the responsible researchers and the infrastructure institutions following the required storage period taking all legal and ethical aspects into consideration. Contractual obligations to third-party funders and the interests of other stakeholders (cooperation partners, participating research institutions, etc.) must be taken into account. The deletion should be recorded in a deletion protocol.
- (5) Further principles and regulations covering the handling of data, research data management, publications, and open access can be found in the respective regulations of Freie Universität Berlin.

## **Section 11 Documentation**

- (1) All information relevant for the generation of the research data is to be documented comprehensibly and completely by the researchers responsible for the research findings. This also includes the subject-specific appropriate documentation of the methods, the documentation of the quality assurance measures taken during the research process, and the complete and correct referencing of any sources, whether they be work products generated by the researchers themselves or by others.

(2) In general, findings must also be documented that do not support the research hypothesis or are otherwise undesirable or surprising. There is no selective documentation of the research findings.

## **Section 12 Authorship**

(1) All persons named as authors in a publication must be entitled to authorship, and all persons entitled to authorship must as a rule be named as author.

(2) The author is anyone who has made a genuine, identifiable contribution to the content of a scientific text, data, or software publication. A genuine, identifiable contribution occurs in particular when a researcher was significantly involved in

- Outlining and developing the specific research activities described and evaluated in the publication (not: mere application for or acquisition of funds, mere management or supervisor position, or similar);
- or the independent collection and processing of data, development of sources or programming of software (not: mere execution of routine technical tasks, mere implementation of predefined survey formats, or similar);
- or the independent analysis, evaluation, or interpretation of data, sources, or results (not: mere listing of data, mere compilation of sources, or similar);
- or the development of conceptual approaches or argumentative structures (not: mere advice on other people's drafts, the mere introduction of unspecific suggestions, or similar);
- or the drafting of the manuscript (not: mere editorial adjustments, mere linguistic corrections, or similar).

(3) Honorary authorships are not permitted. Superiors or supervisors are not automatically co-authors. If a contribution is not sufficient to justify authorship, recognition in the footnotes, preface, or acknowledgments should be considered. Persons named in the footnotes, preface, or acknowledgments should be informed about their naming in good time before the publication.

(4) The order of authorship is to be set in good time, usually at the latest when the manuscript is written up. Agreement must be reached on the basis of comprehensible criteria and taking into account the conventions of the specialist field.

(5) All authors need to agree on the final version of the work to be published; they all bear equal responsibility for the publication unless otherwise expressly stated. The agreement to publish may not be refused without sufficient reason.

(6) If authors use AI-supported programs to generate text, code, or illustrations when creating a publication, they will indicate what software was used, for what purpose, in which places, and to what extent.

## **Section 13 Publication and publication medium**

(1) All research results should be made generally accessible in accordance with the FAIR principles (Findable, Accessible, Interoperable, Reusable), insofar as this does not conflict with the legitimate interests of third parties. This means that as far as is possible, within reason, and legally permitted, the research data, materials, information, methods, and software (including self-

programmed software) used to obtain the research findings must be made available and the working methods and workflows must be comprehensively documented.

(2) Researchers are responsible for deciding in each given case whether, when, and how the research findings will be made publicly available, bearing in mind any potential negative consequences (in particular with regards to possible dual use). Research findings are presented in a way that can be replicated by third parties.

(3) Authors must select the publication and format in which they wish their contributions to appear with care, bearing in mind the quality of the publication and its visibility in the relevant subject fields. Where scientists have an editorial role, it is their duty to check the quality and seriousness of the publication before taking on this task. The quality of a publication does not depend on the publication medium and specific criteria (e.g., impact factor or circulation).

(4) Authors must do their best to ensure that their contributions are identified by the publisher and any other supplier assisting with the publication directly or indirectly in such a way that they can be correctly cited by researchers/readers.

(5) Any discrepancies or errors subsequently discovered must be corrected and appropriate measures must be taken to rectify them (e.g., correction or withdrawal of a publication). The same applies if such discrepancies or errors are pointed out by third parties.

(6) Deliberate splitting of related research results into several publications without objective justification and inappropriate multiple use should be avoided, and self-citations should be limited to the necessary minimum. Mere translations of previously published works should be clearly identified as such.

#### **Section 14      Research misconduct**

(1) A case of research misconduct is believed to have arisen when a researcher knowingly or negligently violates the rules of good research practice, in particular when they make false statements, the scientific/scholarly work of others is abused, or the research activities of others are impaired. This does not affect the special circumstances as defined in Sections 5 and 6. Research misconduct can also take the form of a failure to act in breach of duty.

(2) False statements include

- a) Inventing scientific data or research findings,
- b) falsifying scientific data or research findings, in particular by suppressing or eliminating data or results obtained in the research process without disclosing this, or by falsifying a description or illustration,
- c) the incongruent presentation of an image and corresponding statement,
- d) misuse of statistical or methodological procedures with the intention of interpreting data in an unjustified manner,
- e) incorrect scientific information in a funding application or as part of a mandatory report,
- f) claiming authorship or co-authorship of another person without their consent.

(3) Unauthorized appropriation of third-party scientific/scholarly work is deemed to have occurred in the following cases in particular:

- a) unmarked usage of third-party content without indicating the source as required (“plagiarism”),
  - b) unauthorized use of research approaches, research results, and scientific/scholarly ideas (“idea theft”),
  - c) unauthorized disclosure of scientific data, theories, and findings to third parties,
  - d) presumption or unfounded acceptance of authorship or co-authorship of a scientific/scholarly publication, in particular if no genuine, identifiable contribution was made to the scientific/scholarly content of the publication,
  - e) lack of reference to relevant previous findings or contributions of others,
  - f) unauthorized publication and unauthorized disclosure to third parties as long as the scientific work, knowledge, hypothesis, doctrine, or research approach has not yet been published.
- (4) Impairment of the research activities of other persons is deemed to have occurred in the following cases in particular:
- a) Sabotage of research activities (including damaging, destroying, or manipulating experimental set-ups, devices, documents, hardware, software, chemicals, or other items that others require for research purposes).
  - b) Falsifying or unauthorized deletion of research data or research documents.
  - c) Breach of supervision duties (see Section 4.5).
- (5) Research misconduct on the part of reviewers or members of university committees is deemed to have occurred if they
- a) make unauthorized use of scientific data, theories, or findings of which they have gained knowledge as part of their work as a reviewer or committee member for their own scientific purposes,
  - b) disclose data, theories, or findings to third parties during their work as reviewer or committee member thereby breaching the confidentiality of the process,
  - c) do not inform the responsible office about circumstances that could give rise to concerns about bias during their work as reviewer or committee member.
- (6) Abuse of power and taking advantage of dependencies constitute research misconduct when superiors or supervisors abuse (or threaten to abuse) the authority and influence associated with their function to cause others to commit, tolerate, cover up, or become involved in research misconduct. The object can be any kind of wrongdoing over which the person making the threat claims to have influence, for example, the negative evaluation of a thesis, the withholding or withdrawal of the resources necessary for a research project (data, workplace, material, equipment, and funds) or the termination or non-renewal of an employment contract or supervisory relationship. An abuse of power is to be assessed as research misconduct in particular if
- a) a supervisor asks a doctoral candidate to grant them “honorary authorship,”
  - b) someone is induced to write publications in the name of the superior or supervisor,
  - c) someone is induced to make false statements, for example, to manipulate or falsify data,
  - d) someone is induced not to report or to cover up research misconduct.



(7) If several persons are involved in research misconduct, then each person is individually responsible for this. Joint responsibility for the research misconduct of other persons may result from active involvement in the misconduct of others, co-authorship of falsified publications, or neglect of a supervisory or other duty.

(8) In corresponding cases, misconduct may be assessed as less serious if the elements relevant to the assessment, in particular the degree of fault (intent, gross negligence) or the consequences and manner of committing the act, make this appear appropriate. Each case is to be considered individually to decide whether a case of misconduct exists.

### **Part III Committees and Advisory Bodies**

#### **Section 15 Joint provisions**

(1) Ombudspersons and members of the investigatory commission work independently and are not bound by instructions in their function. They receive the support required for their work through the responsible dean's office or through the Executive Board of Freie Universität Berlin. The names of ombudspersons and members of the investigatory commission shall be published with their contact details in an appropriate manner.

(2) Individuals may only be appointed ombudspersons and members of the investigatory commission if they are not obliged to act, for example, in their official function on the basis of information they receive. Members of deans' offices, the Executive Board, or the Board of Trustees may not be appointed. The office of ombudsperson or member of the investigatory commission ends with the appointment as a member of the Executive Board, a dean's office, or the Board of Trustees of Freie Universität Berlin. According to Section 18, an ombudsperson cannot be simultaneously a member of the investigatory commission.

(3) The appointment is for five years; a maximum of two terms in office are possible. The term of ombudspersons or members of the investigatory commission ends as soon as the person is no longer a member of Freie Universität Berlin; however, this does not apply to the external member of the investigatory commission (see Section 18.1).

(4) If, at the end of their term, an ombudsperson or a member of the investigatory commission is involved in a process that could not be concluded by that time, they remain responsible for this process (instead of their successor) even if that work extends beyond the end of their term. They must continue in their role until it is completed for as long as they are a member, or pensioned or emeritus professor of Freie Universität Berlin.

#### **Section 16 Ombudsperson in the department**

(1) Ombudspersons at the departmental level advise the members of their department on good research practice. Members of the central facilities and central institutes consult the ombudspersons from the department most closely related to their subject. The departmental ombudspersons are contact persons if there is suspicion of research misconduct by their (former) members and carry out the preliminary examination. Section 17.1 remains unaffected.

(2) The departmental ombudspersons have a deputy representative who takes over the preliminary examination in case of concerns about bias or if the departmental ombudsperson is not available.

(3) The department councils appoint an ombudsperson and a deputy from among the department members at the suggestion of the dean's office. Only researchers with management experience can be appointed as departmental ombudspersons. That includes members of the professorial staff and academic employees with permanent duties, provided they have management experience of their own. A maximum of one official may come from among the retired or emeritus professors.

### **Section 17 Central ombudsperson**

(1) The central ombudsperson is the contact person for the departmental ombudspersons and the last instance of appeal in the complaints procedure following prior preliminary examination conducted by the departmental ombudsperson. In exceptional cases as well as within the framework of cooperation agreements of Freie Universität Berlin with external institutions (cooperation model), the central ombudsperson takes over the preliminary examination.

(2) The central ombudsperson and departmental ombudspersons meet at least once a year to share their experiences and advice. They advise the Executive Board of the Freie Universität Berlin in questions of good research practice.

(3) At the suggestion of the Executive Board, the Academic Senate appoints a central ombudsperson and a deputy from among the researchers at Freie Universität Berlin with management experience. That includes members of the professorial staff and academic employees with permanent duties, provided they have management experience of their own. A maximum of one official may come from among the retired or emeritus university lecturers.

### **Section 18 Investigatory commission**

(1) Formal investigations into possible acts of research misconduct are carried out by an investigatory commission. It comprises the following members:

- a representative qualified to hold the office of judge or with experience in out-of-court settlements. This member chairs the commission.
- a representative from the humanities and social sciences.
- a representative from the natural sciences and medical departments.
- a representative from another German university or research institution.

(2) The central ombudsperson has a right to attend investigatory commission meetings. The right to attend meetings as a guest includes the right to participate and speak as well as the right to information on all cases to be looked at by the investigatory commission.

(3) At the suggestion of the Executive Board, the Academic Senate appoints the members of the investigatory commission and one deputy each from among the active researchers at Freie Universität Berlin who have management experience. That includes members of the professorial staff and academic employees with permanent duties, provided they have management experience of their own. An active researcher with management experience from a German university or research institution is appointed as an external member.

(4) The investigatory commission may adopt its own bylaws. As long as and insofar as there are no bylaws, the Administrative Procedure Act of the State of Berlin shall apply accordingly.

## **Section 19 Coordination Office for Research Integrity**

(1) The Coordination Office for Research Integrity functions as a central contact point for good scientific practice for all researchers. It is used for quality assurance, training, information, and advice, and coordinates all university-wide processes in the area of good research practice.

(2) The Coordination Office supports the development and implementation of courses to impart good research practice, the training of teaching staff, and their exchange between each other.

(3) The Coordination Office supports the central ombudsperson and the investigatory commission in terms of content and administration. Being the main office, it coordinates all formal investigation and preliminary examination procedures, insofar as these are carried out by the central ombudsperson. It also manages the files.

(4) The Coordination Office advises persons who suspect research misconduct and informs them about their options and the procedural steps in the event of an initial suspicion of research misconduct.

(5) The Coordination Office is responsible for the contact with other advisory services at Freie Universität. On request, it forwards matters that are not related to good scientific practice to the appropriate office.

(6) The Coordination Office staff are subject to confidentiality within the framework of these statutes. They may discuss suspected cases in a sufficiently anonymous form with their superiors or with the Executive Board for the purpose of quality assurance. Coordination Office staff are not bound by instructions in their advisory work.

## **Part IV Ombudspersons and Investigative Procedure**

### **Section 20 Governing principles**

(1) The procedure for investigating possible acts of research misconduct includes a preliminary examination (Section 22). Following the preliminary examination, should a formal investigation be deemed necessary, this will be then be carried out as set out in Section 23. Both stages of the procedure must comply with the following principles.

(2) The mere bringing of the complaint should not result in any academic or professional disadvantage for the person concerned. All inquiries must be based on the principle of innocent until

proven guilty. A complaint that is knowingly or willfully brought where there are no such indications may itself be deemed to represent an act of research misconduct.

(3) The person concerned must be given the opportunity to state their own position at every stage of the procedure.

(4) The investigation shall take place based on the principles of free appraisal of evidence and confidentiality. All participants must be made aware of their duty to maintain confidentiality. The obligation to maintain confidentiality also generally applies after completion of a procedure except where these statutes allow for exceptions.

(5) The obligation to maintain confidentiality does not apply in cases where the Executive Board or other organizational units of Freie Universität Berlin (e.g., a dean's office) need to be informed by law or according to these statutes, or where this is necessary in consideration of mutual interests.

(6) If there is a concern of bias related to any individual, that person may not take part in the procedure. The concern of bias may be brought by the person themselves, by the person affected by the bias, or by the complainant. In the course of the preliminary examination, the dean's office shall assess the grounds for concern and appoint, if necessary, their representative to carry out further investigations. During the formal investigation the investigatory commission shall examine the grounds for concern, whereby any member of the commission about whom a concern of bias has been raised shall be excluded from this part of the procedure. Should the concern of bias relate to a subject-specific expert in accordance with Section 23.3, the investigatory commission shall also examine the grounds for concern and, if necessary, consult another subject-specific expert. The dean's office and/or investigatory commission must record the reasons for their decision clearly in writing.

(7) The individual stages of the procedure should be carried out as soon as possible. A written and detailed record must be kept of the procedure undertaken and each of the separate stages thereof, including the outcome of each stage.

## **Section 21 Complainant**

(1) Any member of Freie Universität Berlin may contact the ombudsperson for the relevant department at Freie Universität Berlin. They may also contact the "German Research Ombudsman" committee for scientific integrity in Germany. In justified exceptional cases, reports of research misconduct may also be submitted to the central ombudsperson of Freie Universität.

(2) The notification of suspicion is generally to be filed in writing. In case of verbal notification, a written memorandum about the suspicion must be made and signed. Submitting persons are obliged to confidentiality to a particular extent.

(3) Anonymous notifications of suspicion may be submitted. If the complainants remain anonymous, the examination can only take place where plausible and adequate factual indications are presented that could give rise to such concern.

(4) The protection of the complainants is ensured during the whole procedure. The notification about a suspicion of research misconduct – even if it is not confirmed – must not lead to any academic or professional disadvantage for the complainant, provided that their complaint is made in good faith on the basis of objective indications; in accordance with Section 19.2.

(5) The person concerned may only be informed of the name of the complainant with the consent of the complainant. If the complainant does not consent to their name being provided to the person concerned, the ombudsperson shall decide in the course of the preliminary evaluation and the investigatory commission shall decide in the course of the formal investigation respectively whether the proceedings can continue and in particular, whether the matter can be sufficiently investigated under these circumstances. The consent of the complainant is not required if and insofar as there is a legal obligation to disclose the name or the person concerned cannot otherwise defend themselves properly.

## **Section 22 Preliminary examination and ombuds procedure**

(1) The preliminary examination serves to check the plausibility of research misconduct complaints, to assess the nature and severity of the alleged misconduct, to obtain further relevant information if necessary and – if possible – to mediate between the opposing parties (the person making the allegation and the person affected by the allegation) with the aim of reaching an amicable agreement. As a rule, such mediation is only possible if the misconduct is correctable, the conflict parties have not yet taken any non-university route to resolve the conflict (e.g., court proceedings) and confidentiality has been maintained (no publicity).

(2) The ombudsperson shall inform the person concerned of the incriminating facts and evidence and give them the opportunity to issue their own statement within a reasonable period of time. After receipt of the statement from the person concerned or after the deadline for submitting their statement has expired, the ombudsperson will decide on the further procedure.

(3) If the suspicion has not been sufficiently confirmed, the case is closed. The complainant and the person concerned must be informed about this decision in writing, stating the grounds. When deciding on the notification of the reasons, the particularities of the individual case must be taken into account, in particular the extent to which the complainant's academic work is affected. If the complainant or the person concerned does not agree with the closing of the preliminary examination procedure, they are entitled to request within two weeks following such notification that the ombudsperson re-examine their decision. If no agreement on this point can be reached, the central ombudsperson may be called upon for a final appeal by either the complainant or by the person concerned. If the disagreement cannot be resolved through arbitration, the central ombudsperson may decide whether the procedure should nonetheless be terminated or whether it should be passed to the investigatory commission for formal investigation. If the central ombudsperson carries out the preliminary examination himself, there is no right to appeal in the case of disagreement.

(4) If the suspicion is confirmed, but the misconduct is deemed only minor, the ombudsperson shall endeavor to arbitrate an agreement. This should take into account whether the misconduct can be corrected. If arbitration is successful, the arbitration is documented in writing, and the preliminary examination procedure is terminated. If the complainant or the person concerned does not agree with the arbitration proposal, they may request that the ombudsperson reexamine the proposal. This request must be made within two weeks of receiving the initial proposal. Again, the central ombudsperson can be called upon should the disagreement remain unresolved, unless the central ombudsperson carries out the preliminary review personally. If the disagreement cannot be resolved the central ombudsperson may decide whether the procedure should nonetheless be terminated or whether it should be passed to the investigatory commission for formal investigation.

(5) If there is reasonable suspicion of research misconduct that is not classified as minor within the meaning of Section 14.8, the departmental ombudsperson shall refer the matter to the

Coordination Office for Research Integrity, which shall initiate a formal investigation and inform the Executive Board.

(6) The preliminary examination at department level is considered concluded when at least one party makes use of their right of appeal through the central ombudspersons or consults the German Research Ombudsman. In the context of an arbitration attempt, the preliminary examination is also considered complete when neither of the opposing parties respond within an appropriate period.

(7) Regardless of the result, the departmental ombudspersons inform the Coordination Office for Research Integrity about each concluded procedure in the preliminary examination and provide the Coordination Office with a (if necessary, digital) copy of all documents (correspondence, statements, rulings, justifications, and evidence) for the purpose of preserving records and for checking preventative measures.

### **Section 23      Formal investigation**

(1) The formal investigation is used to formally establish whether research misconduct has occurred and to give recommendations for further measures if necessary.

(2) The formal investigation is initiated by the Coordination Office for Research Integrity on behalf of a departmental ombudsperson, the central ombudsperson, or the Executive Board.

(3) The formal investigation procedure is carried out by the investigatory commission. The investigatory commission can call in a subject-specific expert from the field related to the research issue to be assessed.

(4) The investigation shall take the form of non-public verbal proceedings. The commission shall verify in a free appraisal of the evidence provided whether research misconduct has occurred. It is entitled to obtain all information and opinions necessary to clarify the facts of the case, while safeguarding the interests of the persons concerned that are worthy of protection. The researchers are obliged to take part in proceedings in this context.

(5) The person concerned must be given adequate opportunity to state their position. Upon request, they may be given a hearing to state their position verbally; for this purpose, they may be accompanied by a person of their choice in a supporting function.

(6) If the investigatory commission deems that no misconduct can be proven, the proceedings shall be terminated and the Executive Board informed.

(7) If the investigatory commission believes research misconduct is proven to have taken place, they will submit their findings to the Executive Board with a recommendation for further action, taking into consideration the rights of third parties, so that the Executive Board may make a final

decision and instigate sanctions. The report by the investigatory commission is also sent to the relevant dean's office, the central ombudsperson, and the relevant departmental ombudsperson.

(8) Both the person concerned and the complainant must be informed immediately in writing of the grounds for either terminating the procedure or for transferring it to the Executive Board. The decision of the investigatory commission is final, and no further internal complaints procedure may be pursued in this regard.

(9) If an investigation finds that research misconduct has occurred, the central ombudsperson shall advise any persons who are or were involved in the case, and/or who through no fault of their own have been affected directly through the misconduct, on how to safeguard their own personal and scientific integrity.

(10) The files for the formal investigation are kept for thirty years in the Coordination Office for Research Integrity. The persons named in connection with a case of research misconduct, but who are not directly implicated, have the right to receive written confirmation from the central ombudsperson within the retention period that no research misconduct on their part has been established in the context of the respective case.

## **Section 24 Measures**

(1) If the investigatory commission establishes that research misconduct has occurred, the Executive Board shall decide, taking into account the recommendations of the investigatory commission, which measures should be taken to punish the research misconduct. The Executive Board informs the office responsible for the respective measure (e.g., dean's office, personnel division), the central ombudsperson, and the investigatory commission of its decision. The circumstances of the individual case and the severity of the misconduct must be taken into account when making the decision. Possible measures are listed in Appendix I.

(2) If the investigatory commission establishes that research misconduct has occurred, the Executive Board also examines which measures must be taken to protect the interests of third parties. This includes in particular the notification of other researchers (cooperation partners, co-authors), research institutions, journals, and publishers, funding institutions, scientific/scholarly organizations, professional associations, and government ministries.

(3) At the departmental level, the relevant dean's office examines possible academic consequences, e.g., the initiation of proceedings to withdraw academic degrees or a teaching license.

(4) The Executive Board may decide to inform the public to the extent necessary to safeguard public trust in academia and its stakeholders and to prevent damage to Freie Universität Berlin's reputation.

## **Section 25 Relationship to other proceedings**

- (1) The preliminary examination and formal investigation in accordance with these statutes are subsidiary to other legal or statutory proceedings (e.g., regulatory proceedings of Freie Universität Berlin, disciplinary proceedings, labor law and civil law proceedings, criminal proceedings) and do not replace them.
- (2) If other cases need to be examined, the Executive Board shall be informed by the ombudsperson or the Coordination Office for Research Integrity as a priority at all stages immediately and without delay about all relevant facts to initiate the required steps.
- (3) If there is sufficient suspicion of research misconduct in connection with a doctorate or *Habilitation* at the end of the preliminary examination in accordance with Section 22, the relevant dean's office will be informed immediately in order to examine a revocation procedure in accordance with Article 34 of the Berlin Higher Education Act (BerlHG). During the revocation procedure, the procedure for establishing research misconduct can be suspended. Once the revocation proceedings have been concluded, the investigatory commission shall examine whether it is necessary to reopen the proceedings in accordance with these statutes or whether such proceedings shall be discontinued with reference to the results of the revocation proceedings.
- (4) Research misconduct by students related to examinations and assessments is not investigated or sanctioned by the procedures described in these statutes. The respective examination boards are responsible for this; the corresponding Framework Regulations for Degree Programs and Examinations apply.
- (5) At the suggestion of the investigatory commission, the Executive Board may decide to refer a case to the joint ombudsman's office for good research practice at Berlin's universities (Article 5a of the Berlin Higher Education Act [BerlHG]) for investigation of research misconduct. Section 24 applies accordingly.

## **Part V Final Provisions**

### **Section 26 Entry into force; transitional provisions**

- (1) These statutes shall enter into force on the day after their publication in the official bulletin of Freie Universität Berlin (FU-Mitteilungen, Amtsblatt der Freien Universität Berlin). Upon entry into force, the Statute for Safeguarding Good Scientific Practice of November 18, 2020 (FU-Mitteilungen No. 42/2020) shall lapse.
- (2) When these regulations come into force, the ombudspersons and the members of the investigatory commission together with their deputies shall remain in office – subject to Section 18 – until the end of the term of office for which they were elected or appointed before these regulations came into force.
- (3) The described procedural regulations only apply to notices received after the entry into force of these statutes. Preliminary examinations and formal investigations that have already commenced when these statutes come into force will be completed in accordance with the previously applicable procedural rules.



## **Appendix I: Possible measures following the discovery of research misconduct**

- Request to the accused person to retract or correct incriminated publications or to refrain from publishing incriminated manuscripts,
- Withdrawal of funding decisions or rescission of funding agreements, insofar as the decision was made by the university or the agreement was concluded by the university, if necessary, including reclaiming funds,
- Exclusion from an activity as a reviewer or committee member of the university on a temporary or permanent basis,
- Against employees of the university: measures under labor law (e.g., warning, termination of contract, dismissal),
- Against university public servants (*Beamte*): launching of disciplinary proceedings under civil service law with the measures provided for therein, including preliminary measures,
- Filing a criminal complaint with the police or the public prosecutor's office,
- Report the offense to the appropriate government authority,
- Assertion of civil law claims – also by way of preliminary legal protection – in particular for damages, restitution or removal / injunction,
- Assertion of any claims under public law, also by way of preliminary legal protection,
- Initiation of proceedings for the withdrawal of an academic degree.