

(Non-binding English translation of the official German text!)

Code of good scientific conduct at Technische Universität Chemnitz from 09 June 2015

Based on § 79 sentence 3 and § 13 section 3 sentence 1 of the Act on the Freedom of Universities within the Free State of Saxony (Saxon University Freedom Act – SächsHSFG) in the version of the announcement of 13 January 2013 (SächsGVBl., page 3) last amended by article 11 of the act of 29 April 2015 (SächsGVBl. pages 349, 354), the Senate in consultation with the University Management of Technische Universität Chemnitz has enacted the following code of conduct:

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Within these regulations grammatically masculine designations of persons apply accordingly to persons of male and female gender.

Preamble

Good scientific conduct is a precondition for a high-performing and internationally competitive scientific institution and its work. In order to ensure good scientific conduct, Technische Universität Chemnitz (hereinafter: TUC) has enacted the following guidelines and procedural regulations corresponding to the recommendations of the German Rectors' Conference of 6 July 1998 for dealing with scientific misconduct at universities as well as to the propositions of the German Research Foundation for ensuring good scientific conduct of 3 July 2013. The objectives of this code of conduct consist on preventing scientific misconduct and on ensuring good scientific conduct.

Section 1: Basics and definitions

§ 1

Good scientific conduct

- (1) The commitment to good scientific conduct refers to the compliance to the requirements of good scientific practice. To the requirements of good scientific practice belong especially:
 1. to record the results of research and carefully verify the results,
 2. to declare all sources of information used and be strictly honest with regard to contributions of staff members, partners, competitors and predecessors,
 3. to respect the rules of the respective discipline and
 4. to prevent, to avoid and – if applicable – to adjust scientific misconduct without delay.
- (2) Scientific misconduct means the culpable infringement of good scientific conduct. Scientific misconduct applies especially in the cases that within a scientific context culpably
 1. false declarations are made (refer to enclosure number 1),
 2. the right on intellectual property of other persons is infringed (refer to enclosure number 2) or
 3. research is impaired in another way (refer to enclosure number 3).

§ 2

Obligated persons

- (1) All members and adherents of TUC who are active in a scientific way are obliged to respect the code of good scientific conduct. Third persons are obliged to respect the code of good scientific conduct insofar as their scientific activities refer directly to TUC, i. a. in the case of recognition of an institution as Affiliated Institute of TUC.
- (2) Members and adherents of TUC are self-responsible for the obligation that the code of good scientific conduct according to § 1 section 1 is respected by themselves and their sub-ordinated staff members. Students have to be informed about the code of good scientific conduct and their compliance to the code of scientific conduct has to be observed. The code of scientific conduct represents an integrative component of teaching and promotion of young scientists.
- (3) Scientific misconduct may result either from own misconduct or from the shared responsibility for the misconduct of other persons.
- (4) Own misconduct is in particular the case if

1. data, theories and knowledge, of which obliged persons according to section 1 became aware by their activities, are used in an unauthorized way,
 2. confidential documents or included data, theories and knowledge are passed to other persons in an unauthorized way.
- (5) A shared responsibility for the misconduct of other persons is in particular the case if one
1. actively supports the scientific misconduct of other persons,
 2. knows from counterfeit of other persons,
 3. engages as co-author of publications containing counterfeits,
 4. seriously neglects his obligatory supervision.

§ 3

Consequences of scientific misconduct

- (1) In the case that scientific misconduct is determined, TUC takes appropriate measures corresponding to the kind and severity of the misconduct. The proceeding of determination of scientific misconduct is specified in section 2 of this code of good scientific conduct.
- (2) The regulations applicable for labor, civil, penal or regulatory legal measures remain unaffected.

Section 2: Procedural regulations

Subsection 1: General procedural regulations

§ 4

Initiation of investigation

- (1) Investigations regarding the suspicion of scientific misconduct are initiated by application of persons impaired or ex officio based on information by informants.
- (2) Applications resp. information have to be submitted in written form and have to contain the name(s) of the person(s) suspected of scientific misconduct as well as a coherent and substantial description of facts. They have to indicate the name of the impaired person(s) resp. the informant(s) as well as the evidences necessary for the investigation of the scientific misconduct
- (3) Investigations according to this section are confidential unless this code of good scientific conduct does not provide other regulations.

§ 5

Responsibility

- (1) The responsible institutions at TUC for investigations regarding the suspicion of scientific misconduct are the following
 1. the Ombudsperson,
 2. the Committee for the Assurance of Good Scientific Conduct (hereinafter: Committee),
 3. the University Management
- (2) For the administrative organization and coordination of investigations according to sections 2 and 3, an office will be established. To this office belong at least two staff members of the Central University Administration. Their contact data have to be published on the homepage of TUC. The staff members of the office are subject to the obligation of confidentiality regarding all facts to which they become aware during their duty in this context unless this code of good scientific conduct does not provide other regulations.
- (3) The office is especially responsible for the following tasks:

1. the receipt, recording and administration of applications and information,
 2. the receipt, recording and administration of appeals resp. objections according to § 14,
 3. the observance of the compliance to formal standards, especially with regard to regulations concerning procedures and deadlines,
 4. the forwarding of applications resp. information including all corresponding documents to the respectively responsible institutions,
 5. the coordination of the correspondence with the impaired person(s) resp. the informant(s) and the affected person(s), especially obtaining statements and elaborating information notices,
 6. the support of the Chairperson of the Committee in the preparation and implementation of meetings of the Commission, including taking minutes.
- (4) Each person(s) and institution(s) involved in the investigation have a right to information by the office concerning the stage of the investigation.

§ 6

Processing of investigation

- (1) Applications resp. information regarding scientific misconduct have to be submitted to the office. In the case that applications resp. information regarding scientific misconduct are submitted to other institutions at TUC, they have to be forwarded to the office without delay.
- (2) The office forwards all applications resp. information to the Ombudsperson insofar as the requirements according to § 4 section 2 sentence 1 are fulfilled and that there are no reasons for suspension of investigation according to § 7. After implementation of the ombudsperson's proceeding, the Ombudsperson informs the office about the conclusion of the ombudsperson's proceeding and its result. After a period of three months at latest since the forwarding of the application resp. information to the Ombudsperson, this notice is considered as being given. The Ombudsperson has to inform the office regarding the stage of investigation.
- (3) Insofar as the ombudsperson's proceeding did not result in an amicable adjustment of that issue or after expiration of the deadline according to section 2 sentence 3, the office initiates a formal investigation by the Commission. At the same time, by declaration of the incriminating facts and evidences, the opportunity has to be provided to the person(s) suspected of scientific misconduct to submit a written statement within a period of four weeks.
- (4) The Chairperson of the Commission informs the office about the conclusion of the formal investigation and initiates – if applicable – the final decision taken by the University Management.

§ 7

Suspension of investigation

- (1) In the case that the suspicion of scientific misconduct is the objective of a concurrent prosecutor's investigation or an academic investigation specifically belonging to the responsibility of a faculty of TUC, the investigation according to this code shall be suspended after initiation until the other investigations have been concluded. The Commission has to be informed about the results of the other investigations.
- (2) In deviation of section 1, with regard to examination, PhD and habilitation issues, the formal investigation will be concluded by the decision of the responsible institution at TUC in the respective other investigation. The decision taken in the other investigation is binding for the institutions mentioned in § 5. The Commission has to be informed about the decision in the other investigation.

- (3) Insofar as the relevant regulations for the other investigation do not include provisions concerning the communication to the affected person(s), the impaired person(s) resp. the informant(s) about the conclusion of the investigation, this is done by the office.

§ 8

Protection of person impaired, informant and person affected

- (1) Data of the person impaired resp. of the informant as well as of the person affected have to be treated confidentially despite of the mutual exchange of information between the institutions mentioned in § 5. The name of the person impaired resp. the informant have to be declared in the case that the person affected is not able to defend himself appropriately in another way.
- (2) The person affected has to be informed about the incriminating facts and evidences as soon as possible.
- (3) Persons impaired resp. informants as well as persons affected who have been suspected wrongly of scientific misconduct shall not suffer from discriminations in their own scientific and professional career. Discriminated persons have the right to demand a declaration indicating that they were suspected wrongly of scientific misconduct.

Subsection 2: Ombudsperson

§ 9

Appointment of Ombudsperson

Based on the suggestion of the University Management, the Senate appoints an Ombudsperson for a mandate of three years as well as a deputy for the case of unavailability or bias. Reappointment is permitted. The Ombudsperson and the Deputy Ombudsperson have to be members or adherents of TUC belonging to the group of professors and being experienced in scientific issues.

§ 10

Ombudsperson's proceeding

- (1) The Ombudsperson consults members and adherents of TUC in issues regarding scientific misconduct. This applies also for the case that scientific misconduct of persons mentioned in § 2 section 1 sentence 2 is the subject of discussion.
- (2) The Ombudsperson examines the accusations for plausibility and severity, for possible motives and for opportunities to resolve them.
- (3) The Ombudsperson is engaging for a conclusion of the proceeding by mutual agreement.
- (4) By the confirmation towards the office according to § 6 section 2 sentence 2, the ombudsperson's proceeding is concluded.

Subsection 3: Committee for the Assurance of Good Scientific Conduct

§ 11

Composition of the Committee

- (1) According to § 5 section 1 number 2, the following voting members belong to the Committee
 1. the responsible member of the University Management ex officio according to the allocation of responsibilities as Chairperson,

2. two members of TUC who are experienced in scientific issues and who are holding the status of a professor according to § 69 section 1 SächsHSFG,
3. one member of the academic staff of TUC as well as
4. one student of TUC.

The members of the Committee according to sentence 1 number 2 are appointed by the Senate on suggestion of the University Management. The members of the Committee according to sentence 2 numbers 3 and 4 are appointed by the Senate on suggestion of the representatives of the respective group in the Senate.

- (2) The members according to section 1 sentence 1 number 4 are appointed for a mandate of one year, the other members for a mandate of three years.
- (3) The Chairperson appoints one member of the Committee belonging to the group of professors as his Deputy in the case of unavailability or bias.

§ 12

Formal investigation

- (1) The Committee is convened and chaired by the Chairperson. The meetings of the Committee are not open to the public. The regulations of §§ 20 and 21 of the Administrative Procedure Act regarding exclusion and bias apply accordingly.
- (2) The members of the office have the right of participation and speech but they are not entitled to vote. In particular cases, the Committee is entitled to adopt up to two experts of the discipline of the scientific issue to be investigated as further advisory members. The experts have to be university professors according to § 69 section 1 SächsHSFG.
- (3) Persons affected of suspicion of scientific misconduct have – on their demand – the right of oral hearing; in this context a confidant person can be adopted as counsellor insofar as this person is willing to commit to confidentiality towards the Committee. This applies also to other persons invited for hearing.
- (4) The decisions of the Committee are taken by the majority of the present voting members. Shares of voting rights are not permitted.
- (5) The Committee decides whether scientific misconduct is the case and which measures it recommends to the University Management as reaction on this scientific misconduct. The Committee is entitled to take the following decisions for concluding an investigation by own responsibility:
 1. the conclusion of the investigation because the suspicion of scientific misconduct towards the person affected has been dispelled,
 2. the conclusion of the investigation because scientific misconduct could not have been proven,
 3. reprimand in terms of an admonishment in cases of less severe scientific misconduct if the Committee unanimously comes to the conclusion that a decision of the University Management is not necessary and that a reprimand is appropriate and sufficient.

In all other cases, the decision of the Committee including a recommendation regarding appropriate measures has to be forwarded to the University Management for final decision.

- (6) The decision of the Committee as well as the significant reasons which have led to the conclusion of the investigation or the reprimand have to be communicated to the person affected and to the person impaired who has applied for the initiation of this investigation as well as to the Ombudsperson involved in that investigation. By the notice the investigation is concluded.

Subsection 4: University Management

§ 13

Final decision

- (1) The final decision belongs to the University Management in all cases of investigation which were not concluded neither by closing nor by reprimand.
- (2) The University Management – in reconsideration of the recommendation of the Committee – takes the decision whether scientific misconduct is the case. If scientific misconduct is determined, the University Management takes – in reconsideration of the circumstances of the particular case for the benefit of the maintenance of scientific standards at the university as well as with respect of the protection of the rights of all persons involved in the investigation – the decision on the necessity of further measures.
- (3) The University Management initiates the introduction of labor, civil, penal and regulatory legal measures by the respectively responsible bodies or institutions.

Section 3: Legal rights protection

§ 14

Legal rights protection of the person affected

- (1) The person affected is entitled to file an appeal against the decisions of the Committee or the University Management to the office according to the regulations of §§ 68ff. of the Administrative Procedure Act.
- (2) Insofar as the appeal is not admissible according to § 68 of the Administrative Procedure Act, the person affected is accorded a general right for objection. Objections have to be submitted in written form within a period of one month after the notice of the decision to the office. An appeal which is not admissible according to § 68 of the Administrative Procedure Act may be considered as a general objection.
- (3) The office informs the Chairperson of the Committee on incoming appeals resp. objections.
- (4) The decision on appeals resp. objections belongs to the University Management after the statement of the Committee. The decision of the University Management as well as the corresponding justification have to be communicated to the person affected.

§ 15

Legal rights protection of other persons

For other persons concerned by the decisions of the Committee and the University Management where there might be the possibility that they are affected in their proper rights by the decision, § 14 applies accordingly.

**Section 4:
Final provisions**

The code of good scientific conduct comes into force on the day of its publication within the bulletins of Technische Universität Chemnitz. At the same time the Code of conduct for assurance of good scientific practice and for procedures in the case of suspicion of scientific misconduct of Technische Universität Chemnitz of 26 November 2002 (Bulletin No. 159, page 2114) ceases to be into force. The members of the Committee for the Assurance of Good Scientific Conduct appointed according to the code of conduct of 26 November 2002 remain in office until the end of their mandate.

Issued on the base of the decisions of the University Management of Technische Universität Chemnitz on 27 May 2015 and of the Senate of Technische Universität Chemnitz on 2 June 2015.

Chemnitz, 9 June 2015

The Rector
of Technische Universität Chemnitz

Prof. Dr. Arnold van Zyl

Enclosure

1. False declarations

As scientific misconduct may be considered on the field of false declarations in particular the following cases:

- a. the fabrication of data and/ or research results;
- b. the falsification of data and/ or research results, e.g. by selection or rejection of undesired results without declaration, or by manipulation of a presentation or figure;
- c. incorrect indications within a proposal or within the obligation to report (including false declarations with regard to the publication medium or concerning publications in print).

2. Infringement of intellectual property

As scientific misconduct may be considered on the field of infringement of intellectual property, especially with regard to an oeuvre elaborated by another party and protected by copyright or significant scientific results, suppositions, doctrines and research approaches, in particular the following cases:

- a. the unauthorized utilization by assumption of authorship (plagiarism);
- b. the exploitation of research approaches and ideas, especially by an expert (theft of ideas);
- c. the unauthorized forwarding of data, theories and knowledge to third parties;
- d. the assumption of unjustified acceptance of scientific author- or co-authorship;
- e. the falsification of content;
- f. the unauthorized publication or the unauthorized provision to third parties as long as the oeuvre, the knowledge, the supposition, the doctrine or the research approach are not published.

3. Impairment of research in another way

As scientific misconduct may be considered on the field of impairment of research in another way in particular the following cases:

- a. claim of (co-)authorship of another party without its approval;
- b. sabotage of research activity (including the damaging, destroying or manipulation of test assemblies, apparatus, documents, hardware, software, chemicals or other auxiliaries needed by others for the implementation of an experiment);
- c. elimination of primary data insofar as this represents an infringement of legal provisions or the recognized disciplinary conduct of scientific work. This applies also to the unlawfully neglected elimination of data.