

Procedure to address allegations of research misconduct at the ETH Zurich

dated March 30, 2004

The ETH Zurich Executive Board,

pursuant to Article 1, Section 1, Letter g) of the ETH Organization Ordinance of December 16, 2003¹,

hereby promulgates the following decree:

Art. 1 Purpose

The ETH Zurich expects its members to adhere to a culture of integrity, responsibility and self-criticism in scientific research. It aims to ensure truthfulness and fairness as indispensable prerequisites of research. It has the responsibility to investigate any specific allegation of research misconduct.

Art. 2 Scope

¹ This procedure applies to the entire scientific staff of the ETH Zurich.

² This procedure also applies to postgraduate students in case of misconduct in their research activities. In other cases, the disciplinary code of the ETH Zurich² applies instead.

Art. 3 Research Misconduct

¹ Misconduct means a violation of the principles of sound scientific practices³, in particular the willful dissemination of false statements, the willful or wantonly infringement of third party intellectual property rights or interference with such parties' work. Misconduct also includes the willful contribution to a violation by others or the gross disregard of the obligation of supervision (for examples, see Schedule I).

² Joint responsibility may, in particular, arise from contributing actively to violations by others, knowledge of falsifications by others, joint authorship of publications containing falsifications and gross disregard of the obligation of supervision.

¹ RSETHZ 201.021

² RSETHZ 361.1

³ RSETHZ 414; version according to the decision of the Executive Board of 14.11.2007, coming into effect on 1.1.2008

Art. 4 Confidant

¹ The teaching staff committee will appoint a confidant. The appointment is subject to the approval of the Executive Board.

² The confidant will provide advice and assistance and serve as intermediary.

³ He/she will conduct a preliminary evaluation of the complaints submitted. In the case of a well-founded allegation, he/she will propose to the ETH Executive Board to appoint an investigation committee.

⁴ If he/she considers the allegation to be unfounded, he/she will determine the measures to be taken, if any, at his/her own discretion.

Art. 5 Initiation of Procedure

¹ If an allegation is submitted or made publicly known, a procedure must be initiated. A violation can be reported in person to the ETH Executive Board or to the confidant.

² If the confidant considers an investigation to be necessary, he/she will inform the ETH Executive Board.

³¹ The ETH Executive Board will determine whether an investigation committee is to be appointed.

Art. 6 Investigation Committee

¹ The investigation will be carried out exclusively by the Investigation Committee.

² The ETH Executive Board will determine, on a case-by-case basis, the composition of the Investigation Committee, its chairman and the announcement of its composition. The following persons must be appointed to the Committee in any case:

- a. the chair of the department concerned;
- b. another member of this department ;
- c. two external experts.

³ The Investigation Committee will make the necessary inquiries. It will give the respondent the opportunity to develop a full response to the charges, to present evidence and to request that more inquiries be carried out. It must hear the complainant.

⁴ The Investigation Committee will prepare a written report and determine whether misconduct within the meaning of Art. 3 has occurred. The respondent will have the right to review this report before it is referred to the ETH Executive Board and to add a written comment.

Art. 7 Referral to the ETH Executive Board

¹ Should the investigation reveal that the accusation is fully or partially justified, the Investigation Committee will refer the case to the ETH Executive Board.

² Based on the evidence submitted, the ETH Executive Board will determine the procedure to be followed and the measures to be taken.

Art. 8 Discontinuation of Procedure

¹ Should the investigation find the accusation to be unfounded, the Investigation Committee will propose to the ETH Executive Board to discontinue the procedure.

² If the ETH Executive Board intends to discontinue the procedure, the hearing pursuant to Art. 9, Section 1, may be omitted.

³ If the ETH Executive Board discontinues the procedure, it will set forth the reasons for the discontinuation in the decision.

⁴ If requested by the respondent, the discontinuation of the procedure must be made public in an appropriate form.

Art. 9 Adjudication

¹ Following referral of the case pursuant to Art. 7, the ETH will interview the respondent and the complainant in person.

² The ETH Executive Board will not itself pursue any inquiries, but reach a decision on the basis of the documents provided by the Investigation Committee and the personal hearings of the respondent and if appropriate, of the complainant.

³ Should new facts be presented, the ETH Executive Board may request the Investigation Committee to pursue its inquiries further and to add the findings to the case. The respondent and if appropriate, the complainant will be given the opportunity to respond to the new findings.

⁴ The ETH Executive Board will impose sanctions in accordance with the ETH regulations in form of an appealable decree (Schedule II).

⁵ The ETH Executive Board will inform the respondent of the adjudication, together with the justification.

Art. 10 Publication of Adjudication

¹ The ETH Executive Board will determine whether the adjudication is to be published.

² The adjudication must be published where the appointment of an Investigation Committee has already been made public, or where the respondent requests it. In such a publication, the respondent's personal rights must be respected.

Art. 11 General Procedural Provisions

a) Duration of procedure

The procedure will be completed within a time frame appropriate to the case, however as expeditiously as possible. When appointing the Investigation Committee, the ETH Executive Board will fix a time limit.

b) Documentation

Written records will be maintained of each procedural step. The records must be preserved for at least 10 years.

c) Confidentiality

¹ Strict confidentiality will be maintained throughout the procedure. The ETH Executive Board will determine the time, manner and content of any eventual publication of facts and outcome (Art. 11).

² Complainants are entitled to confidentiality. The ETH Zurich will seek to protect the complainant against acts of retaliation or discrimination, in particular where the complainant is in

a position of dependence to the respondent. Retaliation will be deemed to constitute a violation of the provisions of the present decree.

d) Exclusion of biased committee members

At the beginning of each stage, the respondent will be informed of the composition of the respective committee. The respondent may challenge committee members on grounds of partiality.

Art. 12 Penal Responsibility

In the case of serious research misconduct that may constitute a criminal offence pursuant to federal or cantonal law, the ETH Zurich will report the offence to the competent authority.

Art. 13 Effective Date

This decree will become effective as of May 1, 2004.

Zurich, March 30, 2004

on behalf of the ETH Executive Board

President: Kübler

Representative: Kottusch

Schedule 1: Research Misconduct: Examples

Schedule II: Possible Sanctions

Schedule I: Research Misconduct: Examples⁴

Examples of research misconduct includes the following:

- Fabrication of research results;
- Deliberate falsification of data, misrepresentation and deliberately misleading interpretation of research results, distorted presentation of research outcomes through deliberate omission of primary data and failure to reveal this omission and the reasons for it (falsification, manipulation);
- Knowledge of falsifications by third parties; knowledge means for example to be in possession of evidence for the falsifications;
- Deletion of archived data before the usual retention period has expired or after being informed that third persons have requested access to such data;
- Failure to permit access to the primary data to authorized persons;
- Violations detrimental to others, e. g.:

In research activities

- Unauthorized use of primary and other data generated by other investigators;
- Sabotage of research by investigators within and without the respective team, namely by deliberately removing or rendering useless research materials, equipment, primary data and other documents;
- Violation of professional secrecy;
- False allegation of research misconduct by other investigators (defamation).

In publications

- Publication of another investigator's results and findings under one's name (plagiarism);
- Claim to co-authorship without having made any substantial contribution to the work;
- Deliberate failure to mention project participants who have made a significant contribution to the work, deliberate mention of a person as co-author who has not made any significant contribution to the work;
- Intentional distortion of citations from existing or fictitious works of other investigators;
- False statements about the publication status of one's own work (e.g. "Manuscript Submitted" where a manuscript has not yet been presented for publication; "Publication in Press" where the manuscript has not yet been accepted for publication).

In the expert scientific appraisal of the work of other investigators and in the collaboration with others:

- Deliberate concealment of conflicts of interest;
- Violation of professional secrecy (confidentiality obligation);
- Negligent or deliberately false appraisal of projects, programs or manuscripts.

⁴ See also: Guidelines of the SAMS (Swiss Academy of Medical Sciences) for scientific integrity in medical and biomedical research and for the procedure to be followed in cases of misconduct of May 23, 2003; "Recommendations of the Commission on Professional Self Regulation in Science; Proposals for Safeguarding Good Scientific Practice" of January 19, 1998, Guidelines of the German Research Foundation (DFG – Deutsche Forschungsgemeinschaft); Max Planck Forum 3; "Responsible Behavior in Science; Analysis and Recommendations".

Schedule II: Possible Sanctions

Sanctions may be imposed upon persons who, on the basis of the ETH Executive Board's decision, have been found directly or indirectly guilty of research misconduct.

The sanctions must be appropriate to the seriousness of the violation. They may include one or more of the following measures:

- Reprimand or written admonition;
- Cutting, freezing or withdrawal of research resources (financial, employees, research infrastructure);
- Instructions to withdraw the publications affected in concert with the co-authors not affected, if any;
- Notification of the misconduct to the authorities and in the research community;
- Withdrawal of the license to teach
- Withdrawal of title;
- Request to the competent authorities for dismissal.