

## DKFZ Rules of Procedure for Dealing with Scientific Misconduct

The German Cancer Research Center (DKFZ) regulates the procedure for investigating and dealing with cases of misconduct in science at the DKFZ in order to fulfill its responsibility in research and its directly associated tasks in teaching and promoting young scientists.

### 1. Area of application

These instructions are binding for all persons working in a research or research-supporting capacity at the DKFZ.

It is limited to scientific misconduct in connection with professional activities for the DKFZ in the sense of DKFZ employees, i.e., persons with positions at the DKFZ or persons financed by the DKFZ for whom the scientific activity is (also) attributable to the DKFZ. A clear indication of this is the (planned) affiliation of the person with the DKFZ for this scientific activity.

Scientific misconduct can also be investigated if the accused person is no longer scientifically active at the DKFZ but was scientifically active there at the time of the offense.

### 2. The term "scientific misconduct"

**2.1** Scientific misconduct occurs when a person working in a scientific capacity at the DKFZ intentionally or through gross negligence makes false statements in a scientifically relevant context, appropriates the scientific achievements of others without authorization, or impairs the research activities of others. The circumstances of each individual case are decisive.

#### **2.2** False statements are

- a) the invention of scientifically relevant data or research results,
- b) the falsification of scientifically relevant data or research results, in particular by suppressing or eliminating data or results obtained in the research process without disclosing this or by falsifying a representation or illustration,
- c) the incongruent presentation of an image and corresponding statement,
- d) incorrect science-related information in a funding application or as part of the reporting obligation
- e) claiming the authorship or co-authorship of another person without their consent.

#### **2.3** The following cases constitute inadmissible misappropriation of third-party scientific work:

- a) unmarked adoption of third-party content without the required source citation ("plagiarism"),
- b) unauthorized use of research approaches, research results, and scientific ideas ("theft of ideas"),
- c) unauthorized disclosure of scientific data, theories, and findings to third parties,



- d) presumption or unfounded assumption of authorship or co-authorship of a scientific publication, in particular, if no genuine, comprehensible contribution was made to the scientific content of the publication,
- e) falsification of the scientific content,
- f) unauthorized publication and unauthorized disclosure to third parties as long as the scientific work, finding, hypothesis, doctrine, or research approach has not yet been published.

**2.4** The research activities of others are impaired in the following cases in particular:

- a) sabotage of research activities (including damaging, destroying, or tampering with experimental set-ups, equipment, documents, hardware, software, chemicals, or other items required by others for research purposes),
- b) falsification or unauthorized removal of research data or research documents,
- c) falsification or unauthorized removal of the documentation of research data.

**2.5** Scientific misconduct on the part of scientists working for the DKFZ also arises - in the case of intent or gross negligence - from

- a) co-authorship of a publication that contains false information or unauthorized appropriations of third-party scientific work,
- b) neglect of supervisory duties if another person has objectively committed scientific misconduct according to the descriptions in Sections 2.1 to 2.4, and this would have been prevented or made considerably more difficult by the necessary and reasonable supervision.

**2.6** Scientific misconduct also arises from intentional participation (in the sense of incitement or aiding and abetting) in the intentional misconduct of others that constitutes an offense under these Statutes.

**2.7** Scientific misconduct on the part of DKFZ reviewers or committee members is deemed to have occurred if they intentionally or grossly negligently

- a) make unauthorized use of scientific data, theories, or findings, of which they have gained knowledge in the course of their work as a reviewer or committee member, for their own scientific purposes,
- b) disclose data, theories, or findings to third parties without authorization as part of their work as an expert or committee member in violation of the confidentiality of the procedure,
- c) do not disclose facts or circumstances that could give rise to concerns of bias to the competent body in the course of their work as an expert or committee member.

**2.8** Scientific misconduct is also deemed to have occurred if a reviewer or a DKFZ committee member fails to disclose facts in the course of his/her work with the intention of gaining an advantage for him/herself or another person against his/her better knowledge, which reveal

scientific misconduct on the part of the other person according to the descriptions in Sections 2.1 to 2.5.

### **3. Participants and responsibilities**

#### **3.1 Ombudspersons at the DKFZ**

DKFZ Ombudspersons provide neutral and qualified advice on questions of good scientific practice (GSP) and cases of suspected scientific misconduct for DKFZ employees. They examine inquiries while maintaining confidentiality and, if necessary, forward suspected cases of scientific misconduct to the DKFZ Commission for the Investigation of Scientific Misconduct in Science. For further information, please refer to the directive *Good Scientific Practice – Implementation of the DFG Guidelines at the DKFZ* (Dienstanweisung "Gute Wissenschaftliche Praxis - Umsetzung der DFG-Leitlinien am DKFZ").

#### **3.2 Ombudsperson of the Helmholtz Association of German Research Centers (HGF)**

This is the central ombudsperson who independently advises the President of the Helmholtz Association and the Helmholtz Centers, assumes central tasks of the Helmholtz Association within the framework of the GSP, and takes action in particular cases of suspected scientific misconduct.

The central ombudsperson deals in particular with cases in which the reputation or the interests of the Helmholtz Association are directly affected, if several centers are involved, or if the management or the ombudsperson of the center in question is biased or affected.

In the event of suspected violations of the GSP or scientific misconduct, these allegations should be dealt with primarily by the ombudspersons at the respective Helmholtz Center in accordance with the rules of procedure applicable there. The central ombudsperson can be consulted in an advisory capacity if necessary.

The central ombudsperson, as well as the Ombudsman for Science committee, can also be contacted directly by whistleblowers, persons affected by allegations, or anonymously; however, several offices should not be contacted at the same time. If the case reported is not of overriding importance, and there are no significant reasons not to do so, the central ombudsperson will delegate the case to the level of the respective Helmholtz Center for further clarification in consultation with the person making the allegation.

Conversely, in well-founded cases, the ombudsperson of a Helmholtz Center may decide to refer an investigation to the central ombudsperson, provided that the whistleblower agrees to this procedure.

### **3.3 Ombudsman for Science of the German Research Foundation (DFG)**

This is a body set up by the DFG to assist all researchers in Germany with questions and conflicts in the area of GSP and scientific integrity. Researchers are free to contact either this supra-regional ombudsperson or a local ombudsperson at their research institution.

### **3.4 Commission for the Investigation of Misconduct in Science at the DKFZ (Ombuds Commission)**

At the suggestion of the Scientific Council, a commission is appointed by the DKFZ Management Board to carry out studies for cases of misconduct. The members of the commission are

- The Chair of the Scientific Council (as Chair)
- Two department heads
- An internal lawyer
- One research assistant
- The ombudspersons as guests with an advisory vote
- (At the request of the Ombuds Commission) Experts in an advisory capacity.

The term of office of the members is generally three years. Reappointment is possible.

## **4 Procedure**

### **4.1 Examination of competence and bias**

Both the ombudspersons and the Ombuds Commission shall review their jurisdiction before commencing proceedings and, if necessary, during the course of the proceedings. The factual requirements in Section 3 apply. It must also be excluded as far as possible that proceedings relating to the same misconduct by the same person are conducted simultaneously at different institutions (local jurisdiction). If there are indications of such a double referral, the ombudspersons or the Ombuds Commission will contact the other institution and, if necessary, come to an agreement as to which institution will handle the case, depending on the circumstances of the individual case. In all other respects, the DFG's rules on bias must be observed.

### **4.2 Initiation of an investigation**

If the ombudspersons receive indications of scientific misconduct according to the descriptions in Section 2, they shall examine the facts of the case at their due discretion. If the ombudspersons come to the conclusion that there are sufficient grounds for suspicion of serious scientific misconduct, they shall inform the Ombuds Commission. A graphic overview can be found in Section 8 of the appendix, *Ombuds procedure*.

The Ombuds Commission is convened by its chair. The Chair convenes the Ombuds Commission at the request of an ombudsperson. The Ombuds Commission also takes action when information about misconduct in science is addressed directly to it.

### 4.3 Workflow

A graphic overview can be found in Section 8 of the Annex *Ombuds Commission Procedure*.

#### 4.3.1 Preliminary examination

- 4.3.1.1** The person affected by the suspicion of misconduct is given the opportunity by the Ombuds Commission to comment, stating the incriminating facts and evidence. The information must be provided in text form. The person concerned must be given a maximum of two weeks to respond. The name of the whistleblower will not be disclosed to the person concerned during this phase without their consent.
- 4.3.1.2** After receiving the statement from the person concerned or after the deadline set has expired, the Ombuds Commission shall immediately make a decision as to whether and which further clarification measures are required as part of the preliminary examination.
- 4.3.1.3** If the further clarification measures have been completed or are not required, the Ombuds Commission shall decide without delay whether the preliminary proceedings should be terminated or whether a transfer to the formal investigation procedure should take place.
- 4.3.1.4** The preliminary examination procedure must be terminated and the person concerned informed of the reasons if the suspicion is not sufficiently confirmed or the unfounded nature of the allegations is proven.
- 4.3.1.5** If misconduct has already been proven on the basis of the results of the preliminary examination, the Ombuds Commission shall immediately issue a recommendation as to whether and which sanctions or consequences (see Section 5.) it considers appropriate and shall conclude the preliminary proceedings.
- 4.3.1.6** If the preliminary examination has confirmed the existence of sufficiently concrete grounds for suspicion of misconduct without misconduct being proven at the same time, the Ombuds Commission shall immediately decide to initiate formal investigation proceedings.
- 4.3.1.7** The person concerned must be given the opportunity to comment at every stage of the preliminary examination procedure, provided that this is not likely to impair the clarification measures, but at the latest before the final decision in the preliminary examination procedure.
- 4.3.1.8** The actions and results of individual steps of the preliminary review must be recorded in writing, as must the completion of the preliminary review with the supporting reasons.
- 4.3.1.9** The final result of the preliminary review, together with the main reasons, must be communicated in writing to the person concerned, the Foundation's Management Board and, on request, to the whistleblower.
- 4.3.1.10** Information about the parties involved in the proceedings and the findings of the preliminary review to date must be treated as strictly confidential until evidence

of misconduct reproachable under Section 2 is provided. Information on the status or outcome of the preliminary examination must be authorized by the Chair of the Ombuds Commission together with the Management Board.

**4.3.1.11** The decisions to be made as part of the preliminary review are made by majority vote. In the event of a tie, the Chair of the Ombuds Commission shall have the casting vote.

## **4.3.2 Formal investigation**

### **4.3.2.1 Responsibility**

**4.3.2.1.1** The Ombuds Commission is responsible for conducting formal investigations.

**4.3.2.1.2** In individual cases, the Ombuds Commission may call in experts from the field of the scientific issue to be assessed as well as experts for dealing with such cases as additional members in an advisory capacity.

### **4.3.2.2 Procedure**

**4.3.2.2.1** The Ombuds Commission deliberates in a closed hearing. It examines whether scientific misconduct has occurred in a free evaluation of evidence. The departments affected by possible misconduct must be given the opportunity to comment in an appropriate manner. The person concerned shall be heard orally at his/her request; he/she may be assisted by a person he/she trusts; the latter also applies to other persons to be heard.

**4.3.2.2.2** It may be necessary to disclose the name of the whistleblower if the person concerned would otherwise not be able to defend themselves properly, in particular, because the credibility of the whistleblower is essential for establishing the misconduct.

**4.3.2.2.3** If the majority of the Ombuds Commission considers misconduct to be sufficiently proven, it shall submit the result of its investigation to the Management Board with a proposal for further proceedings for a decision. Otherwise, the proceedings shall be discontinued.

**4.3.2.2.4** The main reasons that led to the termination of the proceedings or the referral to the Management Board must be communicated in writing to the person concerned and the department without delay and, at his request, also to the person making the referral.

**4.3.2.2.5** There is no internal appeal procedure against this decision.

## **5 Catalogue of possible sanctions and consequences**

The following catalogue of possible sanctions and consequences for scientific misconduct is intended as a guide. As each case is likely to be different and the severity of the scientific misconduct identified also plays a role, there is no standardized guideline of appropriate responses; rather, this depends on the circumstances of the individual case.

### **5.1 Consequences under labor law**

Since in cases of scientific misconduct at the DKFZ it is to be expected that the person concerned is also an employee of the DKFZ, labor law consequences should always be examined first, e.g.:

- Warning
- Extraordinary termination
- Ordinary termination
- Contract termination

### **5.2 Academic consequences**

Academic consequences in the form of the withdrawal of academic degrees cannot be drawn by the DKFZ itself, but only by the bodies that awarded these degrees, i.e., usually the universities. Universities must be informed of serious scientific misconduct if it is or has been in connection with the acquisition of an academic qualification. This applies in particular for the:

- Withdrawal of a doctoral degree
- Withdrawal of a teaching license

### **5.3 Scientific consequences**

- Request to correct or withdraw publications or to refrain from publication.

### **5.4 Civil law consequences**

The following consequences under civil law may have to be considered, in particular

- Issue of a house ban;
- Claims for restitution against the person concerned, for example for the return of stolen scientific material or similar;
- Claims for removal and injunctive relief under copyright law, personal rights, patent law and competition law;
- Claims for repayment, for example of scholarships, third-party funds or the like
- Claims for damages by the DKFZ or third parties in the event of personal injury, damage to property or the like.

### **5.5 Consequences under criminal law**

Criminal consequences are always considered if there is a suspicion that scientific misconduct also constitutes an offense under the German Criminal Code (StGB) or other criminal or administrative offenses. Any necessary involvement of the investigating authorities must be initiated by the Foundation's Management Board. Possible criminal offenses include

- Violation of personal privacy/secretcy
  - § Section 202a StGB: Spying on data
  - § Section 204 StGB: Exploitation of other people's secrets
- Crimes against life and bodily harm



- § 222 StGB: Negligent homicide
- §§ Sections 223, 230 StGB: Intentional or negligent bodily injury

The DKFZ may be obliged to inform affected third parties and the public and to take necessary measures in order to protect third parties, to maintain confidence in scientific honesty, to restore its scientific reputation, to prevent consequential damage and in the general public interest.

## **6 Procedural principles**

**6.1** All departments at the DKFZ that investigate suspected scientific misconduct within the scope of their responsibility are committed to protecting both the whistleblower and the persons affected or accused by the allegations in an appropriate manner. The competent bodies are aware that the conduct of proceedings and the final, possible imposition of sanctions can constitute a considerable encroachment on the legal interests of the accused person.

**6.2** The investigation of allegations of scientific misconduct must be conducted at all times in accordance with the principles of the rule of law, fairly and with the presumption of innocence. The investigation is also confidential. Investigations are conducted without regard to the individual and decisions are made without regard to the individual.

**6.3** The notification by whistleblowers must be made in good faith. Whistleblowers must have objective evidence that GSP standards may have been violated. If the whistleblower is unable to verify the facts on which the suspicion is based or if there are uncertainties regarding the interpretation of the directive *Good Scientific Practice - Implementation of the DFG Guidelines at the DKFZ*, the whistleblower may contact the ombudspersons at the DKFZ to clarify the suspicion.

**6.4** Neither the whistleblower nor the accused/affected person should suffer any disadvantages for their own academic or professional advancement because of the whistleblowing. This applies to the accused person until misconduct has been proven and established. In the case of persons in early career phases, the report should not lead to delays during their qualification. The preparation of theses and doctorates should not be put at a disadvantage. The same applies to working conditions and possible contract extensions.

**6.5** The whistleblower must also be protected if misconduct is not proven in the proceedings. This only applies if the allegation was made against better knowledge.





- 6.6** All bodies involved in the procedure are committed to carrying out the entire procedure as quickly as possible. They shall take the necessary steps to complete each stage of the procedure within a reasonable period of time.
- 6.7** A suspicious activity report in which the whistleblower does not disclose their identity (anonymous report) will be reviewed if the whistleblower provides reliable and sufficiently concrete facts that enable a review with reasonable effort.
- 6.8** If the identity of the whistleblower is known to the competent body, the body shall treat the identity confidentially and shall not disclose it to third parties without the consent of the whistleblower. Consent should be given in text form. Information may also be disclosed without consent if there is a legal obligation to do so. Disclosure may also be made in exceptional cases if the accused person would otherwise not be able to defend themselves properly because the identity of the person providing the information is important for this. Before the identity of the person providing the information is disclosed, they will be informed of the intended disclosure. They can then decide whether to withdraw the report. If the report is withdrawn, it will not be disclosed unless there is a legal obligation to disclose it. The investigation procedure can nevertheless be continued if a weighing of interests shows that this is necessary in the interest of scientific integrity in Germany or in the legitimate interest of the DKFZ.
- 6.9** The confidentiality of the procedure is restricted if the whistleblower makes their suspicions public. The body responsible for the investigation decides on a case-by-case basis at its own discretion how to deal with a breach of confidentiality by the whistleblower.

## 7 **Entry into force**

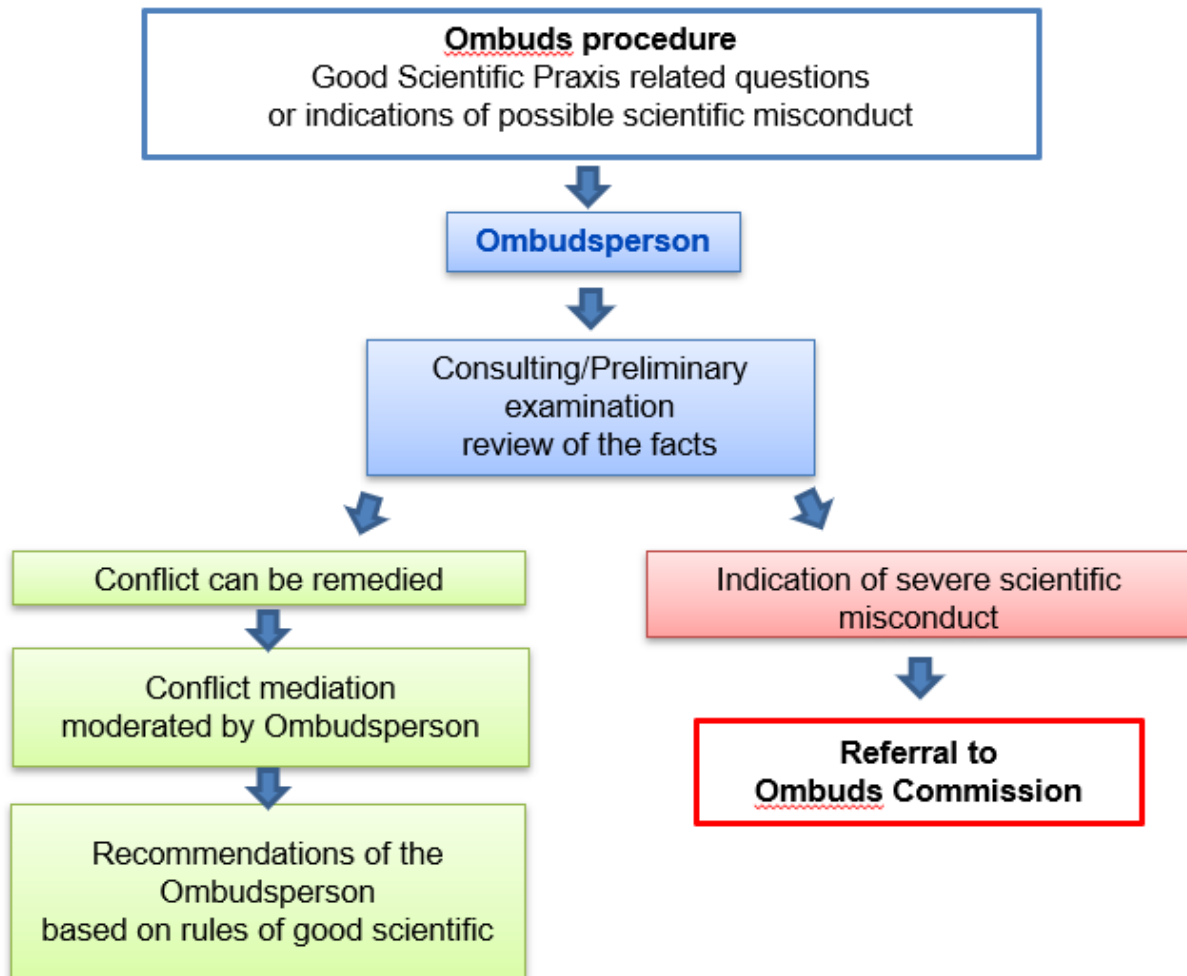
The *DKFZ Rules of Procedure for Dealing with Scientific Misconduct* come into force on 01.11.2024.

They refer to the directive *Good Scientific Practice - Implementation of the DFG Guidelines at the DKFZ* and are based on the DFG's Code of Conduct *Guidelines for Safeguarding Good Research Practice*. It thus replaces the *Regulation on Safeguarding Good Scientific Practice and Dealing with Misconduct in Science* of September 30, 1999.

These instructions are regularly reviewed by the Ombuds Commission to ensure that they are up to date and amended if necessary.

**The original document in German is signed by the Management Board and the head of the Scientific Counsel. In case of any question of interpretation the German version is the leading version.**

## 8 Attachments



*As a matter of principle, the Ombudsperson treats all enquiries **neutrally, fairly** and **in strict confidence**.*

