

English translation of the Regulations of Magdeburg-Stendal University of Applied Sciences for ensuring good scientific practice and specifying steps for addressing academic misconduct dated 15.12.2023, published in the Amtliche Bekanntmachungen Nr. 4/2024.

In the case of contradictions between the German and the English version of the regulations, the German version applies.

Regulations of Magdeburg-Stendal University of Applied Sciences for ensuring good scientific practice and specifying steps for addressing academic misconduct dated 15.12.2023

On the basis of §§ 54, 55 paragraph 3 and 67a paragraph 1 of the Higher Education Act of Saxony-Anhalt (HSG LSA) in the version published on 14 December 2010 (German Länder Law Gazette (GVBl.) LSA p. 600 et seq.), most recently amended on 10 January 2021 (GVBl. LSA p. 10), in conjunction with the recommendations of the German Rectors' Conference (HRK) dated 14.05.2013 and the position paper, "Recommendations on Academic Integrity" published by the German Science Council on 24 April 2015 (Drs. 4609-15) and the "Guidelines for ensuring good scientific practice" code published by the German Research Foundation dated 2 July 2019, Magdeburg-Stendal University of Applied Sciences has enacted the following regulations:

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Introduction

These regulations aim to ensure good scientific practice and set out steps for addressing academic misconduct. The regulations are mandatory for all professors, research assistants, doctoral students, adjunct professors, lecturers, visiting researchers and students involved in research at Magdeburg-Stendal University of Applied Sciences, as well as for external doctoral students and supervisors.

The following regulations implement the “Guidelines for ensuring good scientific practice” code published by the German Research Foundation (DFG) as amended in August 2019.

Section I - Principles of good scientific practice

§ 1 Scope of this statute

- (1) The principles of good scientific practice that must be adhered to by employees of Magdeburg-Stendal University of Applied Sciences in accordance with this statute can be found on the university’s website. In addition, all staff employed under labour legislation or tenured academic staff will also be notified of the entry into force of this statute by email.
- (2) All academics at Magdeburg-Stendal University of Applied Sciences are obliged to and responsible for ensuring that their conduct complies with the rules of good scientific practice. The regulations are therefore mandatory for all professors, research assistants, doctoral students, adjunct professors, lecturers, visiting researchers and students involved in research at the university, as well as for external doctoral students and supervisors.
- (3) The rights and obligations under labour and civil service law remain unaffected by this statute.

§ 2 Individual principles of good scientific practice

In particular, the principles of good scientific practice include:

1. working “lege artis” (by the rule of the art),
2. maintaining strict honesty regarding one’s own contributions and those of third parties,
3. consistently challenging all findings oneself and
4. allowing and fostering critical discourse in the academic community.

§ 3 Professional ethics of scientific staff

- (1) Communicating the principles of good scientific working should begin at the earliest possible stage of an individual’s scientific training (including teaching) and career path.
- (2) Scientists are responsible for protecting the fundamental values of scientific work.
- (3) Scientific staff must undergo a constant process of learning and further training in respect of good scientific practice at all stages of their career. They should exchange information about it and support one another.

§ 4 Organisational responsibility of the university management

- (1) The university management is competent and has organisational responsibility for maintaining good scientific practice at the university.
- (2) The university management establishes the framework conditions for scientific work in compliance with the rules at the university, by establishing to this end an appropriate institutional organisational structure. In this way, the university management creates the conditions for ensuring that academic staff are able to adhere to legal and ethical standards.
- (3) At the university, clear procedures and principles for the selection and development of personnel whilst substantially avoiding non-scientific influences (unconscious bias) are specified in writing through the following measures, with equality of opportunity and diversity being particularly important:
 - Constitution of Magdeburg-Stendal University of Applied Sciences
 - Gender equality plan
 - Equality policy of Magdeburg-Stendal University of Applied Sciences
 - Order concerning protection from discrimination
 - Plan for the advancement of women 2022-2023
- (4) The following supervisory structures and concepts have been established for the advancement of both female and male researchers in the early stages of their careers:
 - The departments and the Senate Committee for Studies and Teaching must ensure that the rules of good scientific practice in accordance with § 2 are a fixed component of students' education and, in particular with regard to the writing of final theses, that they are explained in detail.
 - The lecturers are obligated to provide adequate supervision of the students and the junior researchers assigned to them. This includes, among other things, regularly holding meetings, supervising the progress of work and explaining the rules of good scientific practice.
 - Candid career advice and possibilities for further training and mentoring for scientific and ancillary scientific staff is available. They will be put in a position to shape their careers through increasing autonomy.
 - Doctoral students at the university are obliged to apply the rules of good scientific practice within the framework of the doctoral centres "Social, Health & Economic Sciences" (pursuant to §7 of the Doctoral Degree Regulations) and "Environment & Technology" (pursuant to §9 of the Doctoral Degree Regulations) and their awareness of these is raised by optional courses.
 - Experienced academics as well as junior researchers provide mutual support in the continuous learning and training process and maintain regular dialogue on the subject.
 - In its leadership guidelines, Magdeburg-Stendal University and its members commit to a trusting and open culture of debate with clear, timely and targeted communication. Leaders are responsible in the process for the protection and welfare of the employees.

§ 5 Responsibility of the heads of working units

- (1) The head of a scientific working unit is responsible for the entirety of the unit that they lead.
- (2) The responsibility for leading a scientific working unit comprises in particular the obligation to individual supervision of the junior researchers as embedded within the master plan of the university and the advancement of the careers of scientific and ancillary scientific staff as well as for explaining the principles of academic integrity.
- (3) The cooperation in the scientific working units is constituted in such a way that the unit as a whole is able to complete its tasks, that the necessary cooperation and coordination takes place and that all members are aware of their roles, rights and obligations.
- (4) Misuse of power and the exploitation of dependent relationships is counteracted by appropriate organisational measures both at the level of the individual working units and at university management level.
- (5) Scientific staff enjoy levels of support and autonomy that are consistent with their career stage.

§ 6 Evaluation of academic performance

- (1) The evaluation of the performance of scientific employees follows a multi-dimensional approach. When determining performance and evaluation criteria for examinations, the conferral of academic degrees, for hirings and appointments and for the allocation of funding, it must be ensured that originality and quality always take precedence over quantity as the evaluation standard. The comparative evaluation of scientists may not solely rely on the number of publications as the standard of scientific achievement. The universities and funding organisations should primarily take quality rather than quantity-related criteria into account when evaluating performance. High-quality science is based on discipline-specific criteria. Alongside gaining knowledge and critically reflecting upon it, other performance dimensions should also be incorporated into the evaluation. These include, for example: a commitment to teaching, academic self-governance, public relations, knowledge and technology transfer; contributions in the interest of society as a whole may also be recognised. The scientific conduct (such as openness about findings) of the academic is also taken into account. Personal, family or health-related time off or additional time spent in education or gaining qualifications as a result, alternative career paths or comparable circumstances should also be given adequate consideration.
- (2) As a supporting measure to ensure the academic integrity of final theses (especially Bachelor's and Master's thesis and dissertations) the use of a current anti-plagiarism software solution by one of the expert assessors or an appointed service unit to check the work for plagiarism following submission is strongly recommended. The choice of software solution must take into account subject-specific requirements and current technical possibilities at the discretion of the expert assessor and/or in accordance with departmental guidelines.

§ 7 Multi-phase quality assurance

- (1) Academic staff must conduct each substep in the research process “de lege artis”. Continuous and multi-phase quality assurance must take place. Studies must be carried out taking into account the current status of the research, and in the process, in respect of research projects, a thorough assessment of the research results and an appraisal of the relevant ethical aspects must be undertaken.
- (2) The origin of the data, organisms, materials and software used in the research process must be identified by citing the original sources and the requirements applicable to subsequent use must be documented. If publicly available software is used, this must be continually and quotably documented using the source code, to the extent that this is possible and reasonable.
- (3) The type and scope of research data resulting from the research process must be described.
- (4) An essential component of quality assurance is that the results / knowledge must be presented so transparently for other scientists that forms of replication / re-analysis are guaranteed.
- (5) When scientific findings are made publicly accessible (including by other means than publications), the quality assurance mechanisms used must always be stated. If subsequently, discrepancies or errors in such findings are noted or are pointed out, these must be corrected.

§ 8 Involved stakeholders, responsibilities, roles

- (1) The roles and responsibilities of the scientists participating in a research project must be suitably specified and clear at all times.
- (2) If necessary, the roles and responsibilities must be adjusted.

§ 9 Research design

- (1) When planning a project, scientists must take the current status of research thoroughly into account and acknowledge it. As a rule, this requires careful research into already publicly accessible research output.
- (2) The university management shall ensure the necessary framework conditions for this research within the framework of its budgetary facilities.
- (3) Scientists must apply methods to prevent (even unconscious) distortions in the interpretation of findings, to the extent that this is possible and reasonable.
- (4) Scientists must check whether and to what extent gender and diversity could be significant for the research project.

§ 10 Legal and ethical framework conditions for research

- (1) Scientists must treat the freedom of research granted to them by the constitution responsibly.
- (2) The university management must ensure that the actions of the members of the university comply with the rules and must promote conformity to regulations through appropriate organisational structures. In two departments, department-specific ethics committees have already been set up, in the other departments, preparations are

currently being made to this end. In the transitional phase, the departments without their own ethics committee may have recourse - in terms of administrative assistance - to the existing ethics committees. Alongside the legal provisions currently in force, over and above this the currently applicable version of the Civil Clause applies.

- (3) Scientists must respect their rights and obligations through their conduct, and in particular those rights and obligations arising from regulatory requirements and contracts with third parties.
- (4) Scientists must obtain approvals and ethics committee votes, to the extent that this is necessary, and present them to the responsible authorities.
- (5) Scientists must at all times ensure that they are aware of the risk of misuse of research results, especially in respect of security-related research. Research results must be thoroughly assessed and the ethical implications of the research determined.

§ 11 Rights of use

- (1) Scientists must, at the earliest possible stage, reach documented agreements about the rights to the use of data and results from the research project.
- (2) In particular, those scientists who have obtained the data have a right to the use of data and results.
- (3) Those entitled to use the research data must determine whether and how third parties may access it.

§ 12 Methods and standards

- (1) Scientifically substantiated and verifiable methods must be used in the research.
- (2) When developing and using new methods, scientists must place particular importance on quality assurance and the establishment of standards.

§ 13 Documentation

- (1) Scientists must document information relevant for arriving at their research results in as transparent a manner as is required and appropriate in the subject area concerned, in order to enable the result to be verified and assessed and to enable it to be reproduced and/or re-analysed. If specific technical recommendations exist for verification and assessment, scientists must undertake the documentation process in accordance with the relevant specifications. With regard to the development of research software, the source code must be documented, to the extent that this is possible and reasonable.
- (2) It is not permitted to conduct a selection of results. Findings that support the research question being pursued and/or the hypothesis being tested, must be presented as, in the same way, must findings that cast doubt upon the research question / hypothesis; own findings must be critically reviewed. Rigorous honesty must be maintained in respect of one's own contributions and those of third parties, all results must be consistently critically scrutinized and critical discourse in the scientific community must be permitted and encouraged. The legal framework conditions of a research project also include documented agreements on the rights of use of research data and results arising from it.
- (3) If the documentation does not fulfil the requirements in accordance with paragraphs 1 and 2, the restrictions and reasons for this must be transparently set out.

- (4) Documentation and research results may not be manipulated. They must be protected from manipulation as well as possible.

§ 14 Archiving

- (1) Scientists must store research data and/or results that are made publicly accessible, as well as the underlying, central materials in an appropriately accessible and transparent manner in the institution in which they were produced, or in multi-site repositories. The standards of the department concerned and the roles and usage rights of the respective databases are authoritative. As a rule, the research data that is to be archived must be stored in the form of raw data.
- (2) Storage pursuant to paragraph 1 must be undertaken for a period of at least 10 years. In this respect too, the standards of the department concerned are authoritative. The storage period starts with the establishment of public access to the relevant data or results.
- (3) Paragraphs 1 and 2 also apply for the research software programmes used.
- (4) Where there are plausible reasons for not storing certain data or only storing it for a shorter period of time than that specified in paragraph 2, scientists must state these reasons transparently.
- (5) The management of Magdeburg-Stendal University of Applied Sciences shall ensure that the necessary infrastructure for appropriate archiving is available.

§ 15 Establishing public access to research results

- (1) In principle, scientific professionals must introduce all of their findings to the scientific discourse. Advances in scientific knowledge must be communicated in a freely accessible manner to the public in the form of publications, and in particular also through Open Access.
- (2) In individual cases there may be reasons not to make results accessible to the public. The decision regarding whether or not to make them accessible must fundamentally not depend on third parties; instead, scientists must decide under their own responsibility and taking into account the practices of the relevant specialist field, whether and where they will make their findings accessible to the public. Exceptions are permissible, in particular, where the rights of third parties are affected, there is the prospect of patent applications, the research is commissioned research or if it is security-related research.
- (3) If results are made publicly accessible, they must be described transparently and in full. This also includes making available the research data, materials and information underlying the results, the methods used and software employed, provided that this is possible and reasonable. This must be done in accordance with the so-called FAIR principles, which are: findable, accessible, interoperable, re-usable. Exceptions are permitted in the context of patent applications.
- (4) In this regard, software that has been programmed by the researcher him/herself must be made accessible by providing its source code, to the extent that this is possible and reasonable. Licensing may be required. All work processes must be set out in detail.
- (5) The researcher's own preparatory work and that of others must be fully and accurately recorded, unless exceptionally and specific to the discipline, it is possible to dispense with doing so in the case of the researcher's own, already publicly accessible findings. At the same time, the repetition of the contents of researchers' own publications must be limited to the extent necessary for understanding.

§ 16 Authorship

- (1) The author is somebody who has made a genuine, documented contribution to the content of a scientific text, data or software publication. Whether or not a genuine and documented contribution has been made depends on the subject-specific principles of scientific working and must be assessed on an individual basis.
- (2) If a contribution is not sufficient to justify authorship, then the support may be suitably recognised in footnotes, the foreword or in acknowledgements. Neither an “honorary authorship” where no adequate contribution was made, nor the derivation of an authorship solely on the basis of a management or supervisory function, is permitted.
- (3) All authors must approve the final version of the work that is to be published; they bear joint responsibility for the publication, unless expressly otherwise stated. Approval for publication may not be refused without sufficient reason. A refusal must instead be justified with verifiable criticism of the data, methods or results.
- (4) Scientists must reach agreement in good time – usually by no later than the drafting of the manuscript – as to who should be the author of the research results and also clarify as well as reach an agreement concerning the order in which the names are to appear. The agreement must be reached in accordance with transparent criteria and taking into account the conventions of each subject area.

§ 17 Publication media

- (1) The scientific quality of an article does not depend on the publication medium in which it is made publicly accessible. In particular, in addition to publications in books and specialist journals, specialist, data and software repositories as well as blogs may be considered.
- (2) Authors carefully select the publication medium taking into account its quality and visibility in the relevant field of discourse. A new publication medium should be tested for its integrity.
- (3) Anyone who takes on a publishing role should carefully choose the publication media for which they are doing this.

§ 18 Confidentiality and neutrality in the case of expert opinions and guidance

- (1) Trustworthy conduct is the foundation for the legitimacy of the process of forming a judgement.
- (2) Scientific professionals who in particular are assessing manuscripts, funding applications or the credentials of individuals are obliged to maintain strict confidentiality in this respect. They must immediately disclose all facts that could give rise to cause for concern regarding partiality to the responsible authority.
- (3) Confidentiality includes ensuring that content to which access is obtained in the context of the role is not passed to third parties and that it is not kept for the individual's own use.
- (4) Paragraphs 1 and 2 apply accordingly for members of scientific advisory and decision-making bodies.

Section II - Ombudsman system

§ 19 Ombudspersons

- (1) At Magdeburg-Stendal University of Applied Sciences, there is an ombudsperson and an equal number of deputy ombudspersons. The deputies exist in the event that there is a concern regarding the partiality of the responsible ombudsperson, or if the ombudsperson is prevented from exercising their role or if this is necessary for discipline-related reasons. The question as to whether there is a concern regarding partiality shall be assessed in accordance with § 20 Excluded persons and § 21 Concern regarding partiality of the Federal Administrative Procedure Act (VwVfG). In cases of doubt, the investigative committee shall decide in accordance with Section III.
- (2) Scientists of integrity may be appointed to the role of ombudsperson or deputy ombudsperson. The disciplines represented at the university should also be taken into account in the appointment. The ombudsperson and their deputies may not, during their period in office, be a member of the investigative committee or a governing body of Magdeburg-Stendal University of Applied Sciences. The following are governing bodies:
 - Senate
 - University management
 - Board of trustees
- (3) As neutral and qualified reference persons, the ombudsperson and their deputy are proposed as independent persons of trust from the ranks of professors at the university by the rector's office and appointed by the academic senate of the university. The names of the ombudspersons and their deputies must be announced in the university by the rector's office in the usual manner for the location.
- (4) The period of office of an ombudsperson or deputy ombudsperson is 4 years. A single re-election is permitted.
- (5) Ombudspersons and their deputies shall receive the necessary support from the leadership of the university and acceptance in the execution of their tasks. To increase the ability to function of the ombuds system, measures should be taken to reduce the burden in other areas of serving ombudspersons and their deputies.

§ 20 Activities of the ombudsperson

- (1) The ombudsperson and his/her deputy exercise their roles in accordance with § 18 independently, and in particular independently of directives or informal case-by-case interference by the university management or other university authorities. The activities of the ombudsperson are undertaken with discretion, i.e. while maintaining confidentiality.
- (2) All members and associated partners of Magdeburg-Stendal University of Applied Sciences may, in matters of good scientific practice and also suspected academic misconduct, refer to the ombudsperson or their deputy. Alternatively, members of Magdeburg-Stendal University of Applied Sciences have the option of contacting the national ombuds body, "Ombuds committee for scientific integrity in Germany".
- (3) The university management has responsibility for ensuring that the local ombudspersons and their deputies are known at Magdeburg-Stendal University of Applied Sciences. The identity and contact details of each person in office are publicised in the following ways:

- on the website
 - in senate meeting minutes
- (4) The ombudsperson and their deputy advise both whistleblowers and individuals to whom the information provided by whistleblowers refers as neutral and qualified persons of reference in matters of good scientific practice as well as in suspected cases of academic misconduct. To the extent possible, they contribute to solution-oriented conflict mediation.
 - (5) The ombudsperson and/or their deputy treat enquiries in confidence and, if necessary, refer suspected cases of academic misconduct to the responsible authority at Magdeburg-Stendal University of Applied Sciences in accordance with Section III.

Section III - Procedures for addressing academic misconduct

§ 21 General principles for addressing suspected cases of academic misconduct

- (1) All authorities at Magdeburg-Stendal University of Applied Sciences that have responsibility for investigating a suspicion of academic misconduct in their area of competence, must promote in a suitable manner the protection of both the whistleblowers and the individual concerned by the allegations (the accused). The competent authorities must be aware that conducting proceedings and subsequently the possible imposition of sanctions may represent considerable interference with the rights of the accused.
- (2) The investigation of allegations of academic misconduct must at all times be undertaken in accordance with the principles of the rule of law, fairness and with presumption of innocence. The investigation must also be confidential. Enquiries and decisions must be made irrespective of the person concerned.
- (3) Whistleblowers must report their suspicions in good faith. Whistleblowers must have objective grounds for suspecting that an individual may have contravened the standards of good scientific practice. If the whistleblower cannot verify the facts on which the suspicion is based for him/herself or if, with regard to an observed occurrence, there are uncertainties concerning the interpretation of the guidelines on good scientific practice in accordance with Section I, the whistleblower must refer to the persons mentioned in § 19 paragraphs 1 and 2 to clarify their suspicion.
- (4) The act of whistleblowing must not entail any disadvantages for either the whistleblower or the accused/affected person in terms of their own scientific or professional advancement. This applies to the person accused until misconduct has been determined and proven. In the case of individuals in the early stages of their career, the report must wherever possible not lead to delays in obtaining qualifications. The writing of final theses and doctoral dissertations should not be disadvantaged. The same applies to employment conditions and possible contract extensions.
- (5) The whistleblowing report must be treated in confidence by all involved parties, in particular to prevent the public becoming involved early in the process and to avoid possible loss of reputation. The whistleblower must also be protected if the proceedings do not prove misconduct. This shall not apply only if the accusation was made in bad faith. In the case of breaches of the principle of confidentiality, suitable sanctions must be considered by the Rector's office.
- (6) All authorities concerned with the entire proceedings must seek to conduct them as quickly as possible. They must take the necessary steps to complete each part of the proceedings within a reasonable period of time.

- (7) A reported suspicion where the whistleblower does not disclose their identity (anonymous report), will be investigated if the whistleblower submits robust and sufficiently precise facts that enable an investigation with reasonable effort.
- (8) If the identity of the whistleblower is known to the responsible authority, they will treat their identity in confidence and will as a matter of principle not divulge it to third parties without the consent of that individual. This consent must be given in writing. The name may be released without consent if there is a relevant statutory obligation. The name may exceptionally also be released if the accused person would not otherwise be able to properly defend him/herself, because such a defence would depend upon the identity of the whistleblower. Before the identity of the whistleblower is disclosed, they will be notified of the intended disclosure. This will enable them to decide whether or not to withdraw their report. Should the report be withdrawn, the name will not be disclosed, unless there is a statutory obligation to do so. The investigation may nevertheless be continued, if on balance it is considered that such an investigation is in the interest of academic integrity in Germany or the legitimate interest of Magdeburg-Stendal University of Applied Sciences.
- (9) The confidentiality of the proceedings will be limited if the whistleblower takes their suspicion into the public domain. The authority responsible for the investigation shall decide on a case-by-case basis at its reasonable discretion how the breach of confidentiality by the whistleblower should be dealt with.

§ 22 Academic misconduct offences

- (1) Academic misconduct is deemed to have occurred if an individual conducting academic research at Magdeburg-Stendal University of Applied Sciences intentionally or through gross negligence makes false statements in a scientifically relevant context, appropriates others' scientific achievements for themselves without authorisation, or compromises the work of others. The special circumstances in accordance with paragraphs 5 to 8 remain unaffected.
- (2) False statements include
 - a) the invention of scientifically important data or research results,
 - b) the falsification of scientifically important data or research results, especially by suppressing or removing data or results obtained in the research process, without disclosing this, or by falsifying a representation or illustration,
 - c) the incongruous representation of an image and associated statement,
 - d) inaccurate scientific information in a funding application or in the context of a reporting requirement
 - e) claiming authorship or co-authorship with another person without their consent.
- (3) Unauthorised appropriation of another person's scientific achievements is deemed to have occurred in the following cases:
 - a) unacknowledged use of content from third parties without the due source citation ("plagiarism"),
 - b) unauthorised use of research approaches, research results and scientific ideas ("theft of ideas"),
 - c) unauthorised disclosure of scientific data, theories and findings to third parties,

- d) presumption or unfounded acceptance of authorship or co-authorship of a scientific publication, especially if no genuine, traceable contribution to the scientific content of the publication was made,
 - e) falsification of scientific content,
 - f) unauthorised publication or making accessible to third parties without authorisation, if the scientific work, findings, hypothesis, theory or research approach have not yet been published,
 - g) arbitrary delay to a publication, especially as the publisher.
- (4) In particular, the following cases constitute interference with a research activity:
- a) sabotage of research activity (including the damaging, destruction or manipulation of experimental set-ups, equipment, documentation, hardware, software, chemicals or other things required by others for research purposes),
 - b) falsification or unauthorised disposal of research data or research documents,
 - c) falsification or unauthorised disposal of the documentation of research data.
- (5) In the case of intent or gross negligence, academic misconduct on the part of scientists working at Magdeburg-Stendal University of Applied Sciences also arises from
- a) the co-authorship of a publication that contains false statements or the scientific achievements of others appropriated without permission,
 - b) the disregard for supervisory duties, if another person has objectively committed the offence of scientific misconduct as defined by paragraphs 1 to 4 and this could have been prevented or substantially hampered by the necessary and reasonable supervision.
- (6) Furthermore, academic misconduct also arises from the intentional participation (in terms of incitement or aiding and abetting) in intentional, in accordance with these regulations, illicit misconduct on the part of others.
- (7) Academic misconduct by an individual providing an expert opinion or a committee member at Magdeburg-Stendal University of Applied Sciences is also deemed to have occurred if they have intentionally or through gross negligence
- a) exploited scientific data, theories or findings, of which they have become aware within the context of their activities as an expert reviewer or committee member, for their own scientific purposes without authorisation,
 - b) within the context of their activities as an expert reviewer or committee member in breach of the confidentiality of the proceedings, divulged data, theories or findings to third parties without authorisation,
 - c) within the context of their activities as an expert reviewer or committee member not disclosed facts or circumstances that might give rise to a concern about impartiality to the responsible authority.
- (8) Academic misconduct is also deemed to have occurred if an expert reviewer or committee member from Magdeburg-Stendal University of Applied Sciences knowingly fails to disclose facts in the course of his/her activities which reveal academic misconduct on the part of another person as defined by paragraphs 1 to 5 with the intention of gaining an advantage for him/herself or another person.

§ 23 Initiation of an investigation

- (1) Whistleblowers should approach the ombudsman or their deputy to report a suspicion in accordance with § 19. The report should be made in text form. It may be made verbally; in this case, the authority to whom the report is made must make a written record of it. If a whistleblower approaches a member of the investigative committee directly with their suspicion, said member must pass on the report to the competent ombudsperson.
- (2) Where there is a concern of impartiality on the part of the ombudsperson in their role in the proceedings pursuant to Section III, notwithstanding § 18 paragraph 1 of this statute, §§ 22 et seq. of the Code of Criminal Procedure apply accordingly. The investigative committee shall rule upon this in accordance with § 24 of this statute.
- (3) The ombudsperson or their deputy shall check in confidence whether there is sufficiently substantiated evidence to suggest that an individual has committed an offence in an actionable way pursuant to § 21. The ombudsperson may conduct preliminary investigations in this connection; § 23 paragraph 2 applies accordingly in this respect.
- (4) If the ombudsperson concludes that sufficiently substantiated suspicious facts exist in accordance with paragraph 3, they may initiate a preliminary review.

§ 24 Preliminary review

- (1) Within the framework of the preliminary review, the ombudsperson must request the accused person to immediately comment in writing upon the accusation. They must provide the accused person with the incriminating facts and evidence in this connection. A time limit must be set for the accused person to comment; this must generally amount to two weeks. The time limit may be extended. The statement from the accused person must be provided in written or text form. Accused persons are not obliged to incriminate themselves.
- (2) Within the framework of the preliminary review, the ombudsperson may carry out the investigations necessary for clarifying the facts, provided that these are permitted by virtue of higher-ranking legislation. They may, for example, request, obtain and view documents, obtain and view other pieces of evidence or - if necessary - seek external expert opinions. All persons involved must be requested to treat the proceedings in confidence.
- (3) The files must show which steps have been taken to clarify the facts of the matter.
- (4) Upon completion of the relevant investigations and following evaluation of all relevant evidence including the statement of the accused individual, the responsible ombudsperson will come to a decision within two weeks of the further course of action. The decision shall depend upon whether, based on the facts, a determination of academic misconduct by the investigative committee seems more probable than a halt being brought to the proceedings (reasonable suspicion). If there is no reasonable suspicion of actionable academic misconduct, the ombudsperson shall bring the proceedings to a halt. In the event that there is reasonable suspicion, the ombudsperson shall convert the preliminary investigation into a formal enquiry, which will be led by the investigative committee.
- (5) In the event of the proceedings being brought to a halt, the decision will initially be communicated in writing to the whistleblower. The essential grounds that have led to the decision must be stated. The whistleblower will be granted a right to protest against the decision within a time limit of two weeks. In the event that a timely protest is received, the decision that has been made will be re-examined.

- (6) If the time limit for the protest elapses without a protest being received or if the protest does not result in a change to the decision, the decision to bring the proceedings to a halt and the essential grounds for that decision will be communicated in writing to the accused person.
- (7) If the proceedings are converted into a formal enquiry, this decision will be communicated in writing to both the whistleblower and the accused. If the accused person has disputed the accusation, the reasons for it not being possible to refute the allegation must be briefly set out.

§ 25 Investigative committee

- (1) An ad-hoc committee exists at Magdeburg-Stendal University of Applied Sciences to carry out formal investigations, which differentiates between misconduct by students and misconduct by researchers / lecturers.
- (2) The investigative committee for the verification of allegations of academic misconduct by professors, research assistants, lecturers and of doctoral students and cooperative doctoral candidates is composed of the interdisciplinary members of the Committee for Research, Development and Technology Transfer. The committee is composed of a leader, six voting representatives and their deputies. The chair of the committee is held by the Prorector for Research, Development and Transfer. The chairperson runs the business of the investigative committee and during the meetings is responsible for enforcing house rules and maintaining order. The investigative committee chooses a person to be the deputy chairperson from among their ranks. At least 4 members of the investigative committee must be full professors at Magdeburg-Stendal University of Applied Sciences. The ombudspersons are co-opted in an advisory capacity and may not vote.
- (3) The investigative committee for the formal investigation of the allegations of academic misconduct by students is made up of the relevant board of examiners / the Dean of Students and if necessary by the members of the Committee for Studies and Teaching; the ombudsperson or their deputy may be requested.
- (4) The voting members of the committee and their deputies are appointed by the university management following election by the university senate. Their period of office is 4 years; it is possible to be re-elected. In individual cases, the investigative committee may also call upon up to two non-voting expert reviewers from the field of the academic issue to be assessed in an advisory capacity.
- (5) In the event of a concern of impartiality or if a member of the committee is prevented from carrying out their role over a longer period of time, a substitute shall be appointed to the committee. With regard to a concern of impartiality, §§ 22 et seq. of the Code of Criminal Procedure apply accordingly. Concerns of impartiality may be raised by all voting committee members, by ombudspersons of the university or by the accused person(s). The committee, excluding the person against whom the concern of impartiality has been raised, will adjudicate on the matter. Procedural steps that cannot be delayed may continue to be undertaken.
- (6) All voting committee members have the same voting right; the chairperson also has the right to vote. Resolutions are passed by a simple majority; in the event that a vote is tied, the chairperson shall have the deciding vote. The committee is only quorate if at least 4 people are present and able to cast a valid vote.
- (7) The members of the committee and their deputies must exercise their activities independently, and in particular independently of directives or informal case-by-case

interference by the university management or other university authorities. Their actions must be undertaken with discretion, i.e. whilst maintaining confidentiality.

- (8) The investigative committee works confidentially and meets behind closed doors.
- (9) The current make-up of the research committee responsible for investigations can be found on the website of the Committee for Research, Development and Transfer and/or the Committee for Studies and Teaching.

§ 26 Course of formal investigations

- (1) The investigative committee must arrange a date for meeting within four weeks. The accused person shall be given the opportunity in a timely manner in advance of the meeting to make representations regarding the allegations either verbally before the committee (official hearing) or in writing. § 23 paragraph 1 clause 6 applies accordingly. The whistleblower will also be given the opportunity to make further representations. If the accused person chooses not to make any further statement, this alone may not be considered to be to their detriment. A decision must then be made on the basis of the documents presented.
- (2) At its reasonable discretion, the committee may request an oral hearing with additional persons whose statements it views as being useful for the proceedings. In regard to possible rights to refuse to award a degree, the provisions of the Code of Criminal Procedure apply accordingly.
- (3) Every person who appears before the committee may call upon a person whom they trust as counsel. The committee must be notified in good time.
- (4) The investigative committee shall verify in accordance with the traditional rules of free appraisal of evidence, whether academic misconduct has been proven to their satisfaction. Academic misconduct may only be determined if a majority decision has been reached to this effect within the committee. The deliberations shall be subject to secrecy. This does not affect the committee's authority to discontinue the proceedings due to a lack of adequate suspicion or in the case of less serious misconduct due to its insignificance. In the event of a cessation of the proceedings, no protest may be lodged by the whistleblower.
- (5) With regard to any disclosure of the identity of the whistleblower, § 20 paragraphs 8 and 9 apply accordingly.
- (6) In the case of suspected breaches of disciplinary/labour law, it must be examined whether a suspension of the proceedings should be considered.
- (7) The investigative committee must submit to the university management in a timely manner a final investigative report, which must also contain the committee's proposed sanctions. The key foundations of the committee's decision must be communicated.
- (8) The documents of the formal investigation must be retained by the university for 30 years.

§ 27 Completion of the process

- (1) The university management shall decide at its reasonable discretion if the accused person has been determined to have committed academic misconduct and whether, and if so, which sanctions and measures should be imposed upon them. If the revocation of an academic degree comes under consideration, the authorities responsible for doing so must be included in the decision.

- (2) The decision and the essential reasons for it will be communicated to the whistleblower and the accused person following the meeting. The parties are only entitled to the legal remedies against the decision provided for by the law.
- (3) The decision will, furthermore, also be communicated to any concerned scientific organisations and third parties, who have a legitimate interest in it. Whether and in which way this is to be done shall be decided by the university management at its reasonable discretion. It will also decide whether and in what manner the public is to be informed. Notices pursuant to this paragraph may be provided with an explanation.
- (4) If the revocation of an academic degree comes under consideration, the authorities responsible for doing so must be included in the decision.

§ 28 Possible sanctions and measures

- (1) If the university management considers that academic misconduct has been proven, in keeping with the principle of proportionality, it may, individually or cumulatively among other things, impose the following sanctions and/or implement the following measures:
 - a) request to the accused person to withdraw or correct incriminated publications or to refrain from publishing incriminated manuscripts,
 - b) withdrawal of funding and/or from funding agreements, if the decision was made by the university or the agreement was made with the university; where relevant this may include a request to repay funds,
 - c) exclusion from acting as an expert assessor or committee member at the university for a period of up to four years,
 - d) against employees of the university: written warning in compliance with labour legislation, ordinary termination, termination of contract, extraordinary termination,
 - e) against civil servants at the university: initiation of disciplinary proceedings in accordance with civil service law with the measures provided for by it, including temporary measures,
 - f) criminal complaint to the police or the public prosecutor's office,
 - g) reporting of an administrative offence to the responsible authority,
 - h) enforcing of claims under civil law – including by way of interim legal protection –, in particular for compensation, surrender of monies or removal/order to cease and desist,
 - i) enforcing of any claims under public law, including by way of interim legal protection,
 - j) initiation of proceedings to withdraw an academic degree or recommendation to initiate such proceedings.
- (2) Other sanctions and measures than those set out in paragraph 1 may only be imposed if they are proportionate in consideration of the legal and legitimate interests of the accused person.
- (3) Measures set out in paragraph 1 are not unlawful because they were not stated in the letter pursuant to § 26 paragraph 3.

§ 29 Transitional provisions / application in the event of leaving the university

- (1) The academic misconduct offences pursuant to § 21 only apply to acts that were committed when this statute was already in force.
- (2) The rules of procedure in this section only apply for whistleblower reports that were received from the date of entry into force of this statute. Any preliminary investigations, examinations and investigative proceedings that were already underway upon entry into force of this statute will be completed in accordance with the previously applicable rules of procedure.
- (3) An offence may be pursued if the accused person is no longer involved in scientific research at Magdeburg-Stendal University of Applied Sciences but was involved in scientific research there at the time of the offence.

Section IV - Entry into force of this statute; announcement; annulment of a previous GSP statute or regulation

§ 30 Entry into force

Following approval by the Rector, these regulations will take effect the day after their university-wide announcement in the Official Notices of Magdeburg-Stendal University of Applied Sciences.

At the same time, the Regulations of Magdeburg-Stendal University of Applied Sciences for ensuring good scientific practice and addressing academic misconduct dated 19.07.2021, published in the Official Notices no. 24/2021 of Magdeburg-Stendal University of Applied Sciences shall cease to apply.

Issued pursuant to the resolution of the Senate of Magdeburg-Stendal University of Applied Sciences dated 13.12.2023.

Magdeburg, 15.12.2023

The Rector