

This is a translation of the original German version of BTU's „Satzung zur Sicherung guter wissenschaftlicher Praxis und zum Umgang mit Verdachtsfällen wissenschaftlichen Fehlverhaltens an der Brandenburgischen Technischen Universität Cottbus–Senftenberg“ from 20 July 2023 (AMbl. 31/2024, <https://doi.org/10.26127/BTUOpen-6774>). This English translation is provided as a convenience and for information purposes only. In the event of a dispute concerning the contents of this document, the original German document alone is valid and legally binding.

## **Statutes for Safeguarding Good Research Practice and for Dealing with Allegations of Research Misconduct at Brandenburg University of Technology Cottbus-Senftenberg, dated 20 July 2023**

Pursuant to § 64 paragraph 2.2 and § 4 paragraph 5 of the Brandenburg Higher Education Act (BbgHG) of 28 April 2014 (GVBl. I/14 no. 18), last amended by the Act of 23 September 2020 (GVBl. I/20 no. 26), and § 16 of the Constitution (GO) of 8 January 2016, last amended by the Second Amendment Statutes of 21 October 2021 (AMbl. 24/2022), and in compliance with the respective current versions of all legal and statutory provisions mentioned in these statutes, the Senate of Brandenburg University of Technology Cottbus-Senftenberg (BTU) hereby adopts the following statutes taking into account the “Model Statutes for Safeguarding Good Research Practice and for Dealing with Allegations of Research Misconduct,” as adopted by the General Assembly of the German Rectors’ Conference (HRK) on 10 May 2022.

### **Contents**

Preamble .....	1
<u>Part I Principles of good research practice</u> ....	2
§ 1 Scope .....	2

§ 2 Basic principles of good research practice .....	2
§ 3 Professional ethics .....	2
§ 4 Organisational responsibility of the university management .....	3
§ 5 Responsibility of the heads of research work units .....	3
§ 6 Evaluation of scientific performance .....	4
§ 7 Cross-phase quality assurance .....	4
§ 8 Stakeholders, responsibilities, and roles .....	4
§ 9 Research design .....	4
§ 10 Legal and ethical frameworks for research .....	5
§ 11 Usage rights .....	5
§ 12 Methods and standards .....	5
§ 13 Documentation .....	5
§ 14 Providing public access to research results .....	6
§ 15 Authorship .....	6
§ 16 Publication medium .....	7
§ 17 Confidentiality and neutrality of review processes and discussions .....	7
§ 18 Archiving .....	7
<u>Part II Ombudsperson system</u> .....	7
§ 19 Ombudspersons / Trusted representative for good research practice and their deputy .....	7
§ 20 Ombudsperson duties .....	8
<u>Part III Procedure for dealing with research misconduct</u> .....	8
§ 21 General principles for dealing with allegations of research misconduct .....	8
§ 22 Forms of research misconduct .....	9
§ 23 Initiating an investigation .....	10
§ 24 Preliminary review .....	10
§ 25 Investigation commission .....	11
§ 26 Formal investigation procedure .....	12
§ 27 Conclusion of the proceedings .....	12
§ 28 Possible sanctions and measures .....	13
§ 29 Transitional provisions / Applicability to persons leaving BTU .....	14
<u>Part IV Final provisions</u> .....	14
§ 30 Entry into force/ Expiration .....	14

### **Preamble**

<sup>1</sup>Brandenburg University of Technology Cottbus–Senftenberg (BTU) is committed to responsible conduct in research, teaching, and knowledge and technology transfer, along with the accompanying obligations to society. <sup>2</sup>Research integrity is a fundamental basis for the acceptance and reputation of research work in a social context, as well as for recognition in the research community. <sup>3</sup>Research integrity and research ethics are integral components of the

research process and serve as quality markers of excellence in research in accordance with the highest international standards. <sup>4</sup>The following guidelines are based on the basic principles of good research practice, the observance and compliance of which are a fundamental prerequisite for research work at BTU. <sup>5</sup>Any violation of these rules is incompatible with the essence of science and jeopardizes the trust amongst researchers as well as the public's trust in science.

<sup>6</sup>All individuals engaged in research work at BTU are obliged to make these provisions the basis of their research activities and to actively contribute to the prevention and investigation of research misconduct within their field of expertise. <sup>7</sup>Any credible allegation of research misconduct at BTU will be investigated with the utmost attention while taking care to ensure the rights of those involved. <sup>8</sup>Should suspicion be confirmed, appropriate measures will be taken for the individual case. <sup>9</sup>Subject- and degree specific rules must be included in the relevant regulations and statutes. <sup>10</sup>These regulations are intended to contribute to the promotion and safeguarding of good research practice at BTU, to firmly embed these practices in daily research and teaching, and to proactively prevent research misconduct.

<sup>11</sup>The following regulations implement the German Research Foundation's (DFG) Code of Conduct "Guidelines for Safeguarding Good Research Practice", as amended in August 2019. <sup>12</sup>They are legally binding for all persons either conducting or supporting research activities at BTU.

## Part I

### Principles of good research practice

#### § 1 Scope

(1) <sup>1</sup>All individuals engaged in scientific work at BTU are responsible for adhering to the rules of good research practice in their conduct. <sup>2</sup>This includes:

1. Scientific staff,
2. Students, insofar as they are involved in research activities,
3. Scholarship holders who are involved in university research projects,
4. Visiting researchers,

5. Doctoral candidates and post-doctoral researchers, and

6. Research support staff, insofar as they are involved in research activities.

(2) These statutes also apply to individuals formerly engaged in research work at BTU if they are subject to allegations of research misconduct related to their work at BTU.

(3) These statutes do not alter any rights or obligations under employment and public service law.

(4) <sup>1</sup>The principles of good research practice to be observed in accordance with these statutes will be announced to those working at BTU on the university's website. <sup>2</sup>Additionally, all employed or civil servant scientific personnel will be informed of the enactment of these statutes in an appropriate manner, for example by email.

#### § 2 Basic principles of good research practice

In particular, principles of good research practice include:

1. Working according to the established rules of the discipline, i.e. working *lege artis*,
2. Maintaining strict honesty with regard to one's own contributions and those of others,
3. Rigorously questioning all findings, and
4. Permitting and promoting critical discourse within the research community.

#### § 3 Professional ethics

(1) <sup>1</sup>The fundamentals of good research practice shall be introduced as early as possible in academic teaching, research training, and career development. <sup>2</sup>Faculties are encouraged to appropriately address research misconduct in their curricula and to inform students and early-career researchers about BTU's rules for ensuring good research practice.

(2) Research personnel shall uphold the fundamental values of research work.

(3) <sup>1</sup>Throughout all stages of their career, researchers should continue to further their education and professional development with regard to good research practice. <sup>2</sup>They support each other in this regard and maintain a regular dialogue.

## § 4 Organisational responsibility of the university management

(1) The university management is responsible for ensuring adherence to and the promotion of good research practice within the university.

(2) <sup>1</sup>The university management creates the institutional framework for compliant research work at BTU by establishing an appropriate organisational structure. <sup>2</sup>This structure ensures that research staff are able to comply with all legal and ethical standards. <sup>3</sup>It also includes the necessary support for the heads of research work units, particularly in the form of legal advice and the promotion of training and continuing education activities.

(3) <sup>1</sup>BTU has implemented clear written procedures and principles for personnel selection and development, with special emphasis on equal opportunities and diversity. <sup>2</sup>The corresponding processes are transparent and seek to avoid the influence of unconscious judgments and thought patterns ("unconscious bias"). <sup>3</sup>These measures include, for example, the current versions of the following BTU regulations:

- Personnel development plan,
- Concept for scientific personnel development,
- University development plan (includes the personnel planning),
- Appointment regulations,
- Dual career guideline,
- Service agreement on general provisions on the advertisement of job vacancies,
- Equality and diversity concept,
- Signing of the "Diversity Charter" in June 2011,
- Statutes for protection against discrimination,
- Agreement for respectful and collegial cooperation for conflict resolution in the workplace and place of study,
- Framework regulation for continuing academic education,
- Leadership principles,
- Guidelines for annual performance reviews.

(4) <sup>1</sup>Various support structures and concepts have been established to promote individuals engaged in research during the early stages of

their careers. <sup>2</sup>These include, for example, the following BTU regulations as amended, as well as the corresponding programmes and facilities:

- Framework regulations for doctoral procedures (*PromRahmenO*),
- General regulations for structured doctoral programmes (*RahmenO PhD*),
- Habilitation regulations, as well as the doctoral and examination regulations of the individual faculties of BTU,
- Tenure-track regulations for tenure-track professorships (assistant and associate professorships),
- Mandatory and binding doctoral agreements between doctoral candidates and their supervisors,
- Structured doctoral programmes within BTU-established Graduate Schools and international PhD programmes,
- Qualification programmes and funding opportunities provided by the Graduate Research School (GRS),
- Qualification and funding programmes as part of the Postdoc Network Brandenburg,
- Advisory and funding offers for female researchers offered by the Equal Opportunities Officer,
- Advisory and continuing education courses offered by the Research Service and the Centre for Continuing Education (ZWW).

## § 5 Responsibility of the heads of research work units

(1) <sup>1</sup>The head of a research work unit is responsible for all activities within the unit and must act in an exemplary manner in accordance with § 2 and § 3. <sup>2</sup>A research work unit can be, for example, an institute, a chair, teaching area, department, group, team, etc.

(2) <sup>1</sup>Notwithstanding university management's overall responsibility, each faculty, central scientific facility, and other research entity within BTU are accountable for establishing an organisational structure and leadership practices that ensure clear assignment of responsibilities for management, supervision, quality assurance, and conflict resolution. <sup>2</sup>This structure also ensures that these responsibilities are actively fulfilled.

(3) In particular, the responsibilities of the head of a research work unit include the obligation to provide adequate individual supervision of early career researchers, embedded in the overall institutional concept, and to promote career development for researchers and research support staff, as well as communicating the principles of research integrity.

(4) <sup>1</sup>Collaboration within research work units is designed such that the unit as a whole can fulfil its tasks, the necessary cooperation and coordination can be achieved, and all members are aware of their roles, rights, and duties. <sup>2</sup>Researchers and research support staff benefit from an appropriate balance of support and autonomy that reflects their career stage.

(5) <sup>1</sup>Suitable organisational measures are in place at both the individual work unit and university management levels to counter abuse of authority and exploitation of dependent relationships. <sup>2</sup>In the event of a conflict, trusted individuals from BTU's Commission for Conflict Prevention may be contacted and they will provide guidance and help facilitate a suitable solution, while maintaining confidentiality.

## § 6 Evaluation of scientific performance

<sup>1</sup>The evaluation of the performance of researchers follows a multidimensional approach. <sup>2</sup>An important part of the assessment is scientific performance, which should be evaluated primarily according to qualitative criteria. <sup>3</sup>Quantitative indicators can be included in the overall assessment, provided they are evaluated with appropriate differentiation and reflection. <sup>4</sup>In addition to scientific achievements, other aspects may be taken into consideration, depending on the evaluation context and provided that this is legally permissible. <sup>5</sup>When disclosed voluntarily, individual circumstances stated in curriculum vitae (CV) may be considered in the evaluation.

## § 7 Cross-phase quality assurance

(1) <sup>1</sup>Research staff conduct each step of the research process *lege artis* (in accordance with recognised standards). <sup>2</sup>Quality assurance is a continuous process and shall occur across all phases of a project. <sup>3</sup>In particular, this refers to compliance with subject-specific standards and established methods, processes such as equipment calibration, the collection, processing and analysis of research data, the selection and use of research software, software development

and programming, and the keeping of laboratory notebooks.

(2) <sup>1</sup>The origin of the data, organisms, materials, and software used in the research process must be disclosed, citing the original sources as well as any reuse requirements. <sup>2</sup>If publicly available software is used, it must be documented in a persistent and citable manner, citing the source code, insofar as this is feasible and reasonable according to the conventions of the discipline.

(3) The nature and scope of research data generated during the research process are described.

(4) An essential aspect of quality assurance is enabling other researchers to replicate findings or results.

(5) <sup>1</sup>When research findings are made publicly accessible (also via communication channels other than publications), the quality assurance mechanisms that were used shall always be disclosed. <sup>2</sup>If inconsistencies or errors in these findings are subsequently identified, these shall be corrected.

## § 8 Stakeholders, responsibilities, and roles

(1) The roles and responsibilities of all researchers and research support staff participating in a research project must be clearly defined and understood at all times.

(2) Roles and responsibilities shall be adjusted as needed.

## § 9 Research design

(1) <sup>1</sup>When planning a project, research staff are expected to consider the current state of research and acknowledge it. <sup>2</sup>This generally involves a careful review of existing publicly available research.

(2) University management shall ensure the necessary framework required for such reviews within available budgetary resources.

(3) Research staff shall use methods to avoid biases (including unconscious) in the interpretation of findings, insofar as this is feasible and reasonable within the conventions of their discipline.

(4) Research staff shall assess whether and to what extent gender and diversity dimensions may be relevant to the research project in terms of methodology, work programme, objectives, etc.

## § 10 Legal and ethical frameworks for research

(1) Research staff shall adopt a responsible approach to the constitutionally guaranteed freedom of research.

(2) <sup>1</sup>BTU management is responsible for ensuring that members and affiliates of the university act in compliance with regulations and shall promote this through suitable organisational structures. <sup>2</sup>University management has established various binding principles for research ethics. <sup>3</sup>These include, for example, the current versions of the following BTU regulations:

- Statutes for the Ethics Commission (Ethics Commission Statutes - EKS),
- Guidelines on the Handling of Research Data at BTU,
- Recommendations for the Guidelines on the Handling of Research Data at BTU,
- Patent Strategy and Guidelines for Handling Technical Inventions,
- Template for the drafting of a contract for research collaboration from the Legal Office, and
- Data protection regulations.

(3) <sup>1</sup>Research staff shall adhere to their rights and obligations, particularly those arising from legal requirements and third-party contracts.

<sup>2</sup>Data protection regulations must be observed.

<sup>3</sup>Amended versions of the European General Data Protection Regulation (GDPR) and Brandenburg Data Protection Act (BbgDSG) apply to personal, identifiable research data.

(4) Research staff shall obtain necessary approvals and ethics statements as required and submit them to the relevant authorities.

(5) <sup>1</sup>Research staff shall maintain a continual awareness of the risks associated with the misuse of research results, especially with respect to the aspects associated with security-relevant research and ethical principles (dual-use). <sup>2</sup>Potential consequences of the research shall be carefully evaluated and ethical implications shall be assessed. <sup>3</sup>Additionally, within the project, potential export control regulations, whether domestic or international, shall be taken into consideration.

## § 11 Usage rights

(1) Research staff shall conclude documented agreements on the usage rights of data and results generated in a research project at the earliest possible stage.

(2) The researcher who collected the research data and results is entitled to use them.

(3) In the event that a researcher moves to another institution, the rights and conditions for possible continued use of the research data and findings generated at BTU must be clarified in advance with the respective dean.

(4) In accordance with data protection regulations, usage rights holders shall define whether and how third parties will have access to the research data.

## § 12 Methods and standards

(1) In research, scientifically substantiated and reproducible methods are used.

(2) When developing and applying new methods, researchers shall prioritise quality assurance and the establishment of standards.

## § 13 Documentation

(1) <sup>1</sup>Research staff shall document all information relevant to the production of a research result to the extent necessary and appropriate within their discipline, thus enabling verification, assessment, and replication of the result.

<sup>2</sup>Where discipline-specific recommendations for review and assessment exist, researchers prepare documentation in accordance with those guidelines. <sup>3</sup>For research software developed in the course of the project, the source code shall be documented according to the conventions of the discipline, insofar as this is feasible and reasonable.

(2) <sup>1</sup>Individual results that do not support a given hypothesis should also be documented. <sup>2</sup>The selection of results is not permitted.

(3) If documentation does not meet the requirements set out in paragraphs 1 and 2, the constraints and reasons for this must be stated transparently.

(4) <sup>1</sup>Documentation and research results must not be manipulated. <sup>2</sup>They must be protected against manipulation as best as possible.

## § 14 Providing public access to research results

(1) In principle, research staff shall make all research findings available as part of the scientific discourse.

(2) <sup>1</sup>There may be individual cases where it is not appropriate to make results publicly accessible. <sup>2</sup>In general, the decision on accessibility must not depend on third parties; rather, researchers decide on their own responsibility – taking into account the conventions of the relevant subject area – whether, how and where to disseminate their results. <sup>3</sup>In particular, exceptions are permitted in cases where the rights of third-parties and data protection are affected, as well as for potential intellectual property applications, commissioned research, or security-relevant research.

(3) <sup>1</sup>If results are made available in the public domain, they shall be described completely and comprehensibly. <sup>2</sup>This also includes making available the research data, materials and information on which the results are based, the methods applied and the software used, insofar as this is possible and reasonable in accordance with the conventions of the discipline. <sup>3</sup>This shall be done according to the FAIR principles: Findable, Accessible, Interoperable, and Reusable. <sup>4</sup>Exceptions are permissible, particularly in cases involving patent applications.

(4) <sup>1</sup>Self-developed software shall be made accessible with its source code, where appropriate within the discipline and as feasible. <sup>2</sup>If necessary, a licence shall be issued. <sup>3</sup>Relevant work processes shall be comprehensively documented.

(5) <sup>1</sup>One's own and external preliminary work must be fully and correctly documented, unless this can be waived in exceptional cases for specific disciplines in the case of own results that are already publicly available. <sup>2</sup>At the same time, the repetition of contents of own publications shall be limited to the extent necessary for understanding.

(6) <sup>1</sup>An honest, transparent, and self-critical presentation of research results and their limitations is required not only in specialist publications but also in cases where researchers communicate their findings directly or indirectly to the broader public. <sup>2</sup>This commitment to responsible handling of research results and authorship in science communication extends to

BTU's researchers as well as to its communicators and editors.

## § 15 Authorship

(1) <sup>1</sup>An author is defined as an individual who has made a genuine, identifiable contribution to the content of a research publication of text, data, or software. <sup>2</sup>Whether a contribution qualifies as genuine and identifiable depends on discipline-specific standards and should be evaluated individually.

(2) In particular, a genuine, identifiable contribution exists if a researcher has contributed in a scientifically relevant manner to:

- the design and development of specific research activities described and evaluated in the publication (not: mere application for or acquisition of funds for framework projects, institutional units or equipment, mere management or supervisor position in the respective research institution, mere training of personnel in standard measures or similar),
- the independent acquisition and processing of data, indexing of sources, or programming of software (not: mere execution of routine technical tasks, mere implementation of predefined survey formats, mere provision of standard research materials or equipment, mere provision of data or similar),
- the independent analysis, evaluation or interpretation of data, sources, or results (not: mere listing of data, compilation of sources or similar),
- the development of conceptual approaches or argumentative structures (not: merely providing advisory input on other people's drafts, mere input of unspecific suggestions or similar),
- drafting a manuscript (not: merely providing simple editorial adjustments or language corrections or similar).

(3) <sup>1</sup>If a contribution is not sufficient to justify authorship, the individual's support may be appropriately acknowledged in footnotes, the foreword, or acknowledgements. <sup>2</sup>Honorary authorship, where no sufficient contribution has been made, is not permissible, nor is attributing authorship solely based on a leadership or supervisory role.

(4) <sup>1</sup>All authors must approve the final version of the work to be published and they share joint responsibility for the publication, unless explicitly stated otherwise. <sup>2</sup>Consent to publish shall not be withheld without valid reason. <sup>3</sup>Rather, the refusal must be justified with verifiable criticism of the data, methods, or results.

(5) <sup>1</sup>Research staff shall agree in advance—typically at the latest when preparing the manuscript—on who should be listed as an author of the research results. <sup>2</sup>This decision shall follow comprehensible criteria and take into consideration the conventions of the relevant discipline.

## § 16 Publication medium

(1) <sup>1</sup>The scientific quality of a contribution does not depend on where it is published. <sup>2</sup>Publication media include books, journals, academic repositories, data and software repositories, as well as blogs.

(2) <sup>1</sup>Authors should carefully select the publication medium, taking into account its quality and visibility within the respective field of discourse. <sup>2</sup>A new publication medium shall be assessed for its credibility.

(3) Anyone who assumes an editorial role should carefully consider for which publication medium this is done.

## § 17 Confidentiality and neutrality of review processes and discussions

(1) Honest conduct underpins the legitimacy of a decision-making process.

(2) <sup>1</sup>Research staff who review manuscripts, grant applications, or individuals' credentials are bound by strict confidentiality. <sup>2</sup>They shall promptly disclose to the appropriate authority any circumstances that could give rise to a potential conflict of interest.

(3) Confidentiality entails that content reviewed in such roles must not be shared with third parties or used for personal purposes.

(4) The principles outlined in paragraphs 1 and 2 also apply accordingly to members of research advisory and decision-making bodies.

## § 18 Archiving

(1) <sup>1</sup>Research staff are responsible for securely storing publicly accessible research data and results, along with central materials on which they are based and, where applicable, the research software used, in accordance with rele-

vant discipline standards and with BTU's guidelines for handling research data, and shall store them for an appropriate period of time. <sup>2</sup>Unless otherwise stated, this is usually ten years. <sup>3</sup>In justified cases, shorter retention periods may be allowed, provided that the reasons are documented transparently. <sup>4</sup>The retention period begins on the date that the data or results are made publicly accessible.

(2) If there are valid reasons for not retaining specific data, the research staff must provide a clear explanation.

(3) Research data and results shall be stored in an accessible and traceable manner either at the institution where they were generated or in recognised cross-location repositories.

(4) <sup>1</sup>BTU ensures that the necessary infrastructure for archiving is available. <sup>2</sup>BTU recommends that data be archived in professional data centres (repositories). <sup>3</sup>If research data is stored in a repository, this must be registered in BTU's bibliography, UBICO, which is also the central research data register. <sup>4</sup>Additionally, the permanent archiving of research documents is possible via the Digital Repository (OPUS) of BTU's University Library.

## Part II Ombudsperson system

### § 19 Ombudspersons / Trusted representative for good research practice and their deputy

(1) <sup>1</sup>The procedure for appointing the trusted representative and deputy for good research practice (ombudspersons) is governed by § 18 of BTU's Constitution, as amended. <sup>2</sup>This also applies to the terms of office and reappointments, the necessary qualifications and professional experience, incompatibility with other functions and positions at the BTU, and the membership of the ombudspersons in the Commission for the Investigation of Allegations of Research Misconduct (Investigation Commission). <sup>3</sup>The German Research Foundation's (DFG) Code of Conduct "Guidelines for Safeguarding Good Research Practice" of 1 August 2019 also applies.

(2) <sup>1</sup>In the event that the primary representative is unavailable or there is a conflict of interest, their deputy shall act as proxy. <sup>2</sup>The question of whether there is a legitimate concern of bias is determined in accordance with § 21 of the Administrative Procedure Act for the Federal State of Brandenburg (VwVfGBbg). <sup>3</sup>In cases of

doubt, the Investigation Commission shall make the final determination in accordance with Part III.

(3) <sup>1</sup>The ombudspersons shall receive the necessary support and acceptance from the university management to carry out their responsibilities. <sup>2</sup>Measures to reduce the ombudspersons' workload shall be taken to increase the system's effectiveness.

## **§ 20 Ombudsperson duties**

(1) <sup>1</sup>In accordance with § 19, the ombudspersons shall perform their duties independently, in particular free from any directives or informal case-related influence from university management or other university bodies. <sup>2</sup>The ombudsperson's duties are confidential and they shall maintain confidentiality beyond their term of service. <sup>3</sup>In accordance with § 18 paragraph 2.2 of BTU's Constitution, as amended, ombudspersons shall act independently upon receiving indications of suspected research misconduct.

(2) All members and affiliates of the university may seek advice from ombudspersons on issues related to good research practice or suspected research misconduct.

(3) <sup>1</sup>Research staff also have the option to consult the "Ombuds Committee for Research Integrity in Germany", which is an independent national body that provides advice and support on issues relating to good research practice and its violation as a result of research misconduct. <sup>2</sup>In particular, the German Research Foundation's (DFG) Code of Conduct "Guidelines for Safeguarding Good Research Practice" of 1 August 2019 applies.

(4) <sup>1</sup>The duties of the ombudspersons are set out in particular in § 18 paragraph 2.1 of BTU's Constitution, as amended. <sup>2</sup>As neutral and qualified contact persons, ombudspersons provide guidance on questions of good research practice and in cases of suspected research misconduct. <sup>3</sup>They also facilitate solution-orientated conflict mediation whenever possible.

(5) Ombudspersons receive inquiries confidentially and, if necessary, refer cases of suspected research misconduct to the responsible body at BTU in accordance with Part III.

(6) <sup>1</sup>University management shall ensure that the ombudspersons are publicly known within BTU. <sup>2</sup>The names and contact details of current ombudspersons are published in accordance

with § 18 paragraph 2.4 of BTU's Constitution, as amended.

(7) <sup>1</sup>The trusted representative for good research practice shall submit an annual report to the Senate on the activities of the ombudspersons. <sup>2</sup>This report may also include recommendations for the safeguarding of good research practice and for dealing with suspected cases of research misconduct at BTU.

## **Part III**

### **Procedure for dealing with research misconduct**

#### **§ 21 General principles for dealing with allegations of research misconduct**

(1) <sup>1</sup>All units at BTU responsible for investigating suspected research misconduct within their remit must protect both the complainant and the accused as appropriate. <sup>2</sup>These units acknowledge that initiating proceedings and potentially imposing sanctions constitute significant encroachments on the legal interests of the accused.

(2) <sup>1</sup>The investigation of alleged research misconduct must at all times adhere to legal principles, ensuring fairness and the presumption of innocence. <sup>2</sup>The investigation must also be confidential. <sup>3</sup>Investigations must be impartial, and decisions made without bias toward any individual.

(3) <sup>1</sup>Reports by complainants must be made in good faith. <sup>2</sup>Deliberately false or malicious allegations may themselves constitute research misconduct. <sup>3</sup>Complainants must have objective reasons for suspecting that standards of good research practice may have been violated. <sup>4</sup>If the complainant is unable to independently verify the facts underlying the suspicion, or if there are uncertainties regarding the interpretation of the guidelines on good research practice under Part I, they should consult with the individuals mentioned in § 20 paragraphs 1 and 2 to clarify the suspicion.

(4) <sup>1</sup>The investigation should not disadvantage the scientific or professional prospects of either the complainant or the accused/affected person. <sup>2</sup>This applies to the accused until misconduct has been proven and determined. <sup>3</sup>In the event that the person is in the early stages of their career, the complaint should not, as far as possible, unduly delay qualification. <sup>4</sup>The completion of theses and dissertations should not be



disadvantaged. <sup>5</sup>The same applies to employment conditions and potential contract extensions.

(5) <sup>1</sup>Complainants shall be protected even in cases where misconduct is not proven in the proceedings. <sup>2</sup>This does not apply if the accusation was made against better judgement.

(6) <sup>1</sup>All persons involved in the proceedings shall endeavour to conduct the entire proceedings as promptly as possible. <sup>2</sup>The necessary steps must be taken to complete each phase of the proceedings within a reasonable timeframe.

(7) An anonymous report of suspected misconduct, in which the complainant's identity remains undisclosed, will be reviewed if the complainant provides verifiable and sufficiently concrete information to allow a reasonable investigation.

(8) <sup>1</sup>If the complainant's identity is known to the relevant authority, their identity must be treated confidentially and shall not be disclosed to third parties without the complainant's consent. <sup>2</sup>Consent should be provided in written form. <sup>3</sup>Disclosure may occur without consent if there is a legal requirement. <sup>4</sup>Disclosure may also be made in exceptional cases if the accused cannot defend themselves adequately without knowing the complainant's identity. <sup>5</sup>Before disclosure of their identity, the complainant shall be informed. <sup>6</sup>They may then decide whether to withdraw the report of suspected misconduct. <sup>7</sup>In the event of withdrawal, disclosure shall not occur unless there is a legal requirement to do so. <sup>8</sup>Nonetheless, the investigation may continue if an assessment indicates that proceeding is necessary in the interest of research integrity in Germany or in the legitimate interest of BTU.

(9) <sup>1</sup>Confidentiality in the proceedings may be limited if the complainant publicly discloses their suspicion. <sup>2</sup>The investigating authority shall consider this breach of confidentiality in further proceedings and make a recommendation to the president on how to handle the breach. <sup>3</sup>The president shall decide on a case-by-case basis and at their own discretion on how to appropriately respond to the complainant's breach of confidentiality.

(10) <sup>1</sup>Data protection laws must be observed throughout the investigation of suspected research misconduct. <sup>2</sup>In particular, the principles of purpose limitation, proportionality, and data minimisation must be observed. <sup>3</sup>Data collected and stored during the entire proceedings must be protected from unauthorised access.

## § 22 Forms of research misconduct

(1) <sup>1</sup>Research misconduct occurs when a person engaged in scientific work at BTU intentionally or through gross negligence violates ethical standards in a scholarly or scientific context, falsifies information, appropriates the research achievements of others without authorisation, or impairs the research activities of others. <sup>2</sup>The circumstances of the individual case are decisive. <sup>3</sup>The particular forms of misconduct detailed in paragraphs 5 to 8 remain unaffected.

(2) Falsification includes:

- a) fabricating scientific data or research findings,
- b) altering scientific data or research findings, in particular through the suppression or deletion of data or results obtained in the research process without disclosure, or by the distortion of interpretations or illustrations,
- c) the incongruent presentation of images and accompanying statements,
- d) providing incorrect scientific statements in funding applications or with regard to mandatory reporting, as well as job applications (including false information about the publication medium or forthcoming publications),
- e) claiming authorship or co-authorship of another person without their consent.

(3) Misappropriation of others' research achievements includes:

- a) unmarked use of third-party content without proper citation (plagiarism),
- b) unauthorised use of research concepts, findings, or scientific ideas (intellectual theft),
- c) unauthorised sharing of research data, theories, or results with third parties,
- d) claiming authorship or co-authorship of a scientific publication without having made a genuine, identifiable contribution to the scientific content of the publication,
- e) misrepresentation of research content,
- f) unauthorised publication or disclosure of unpublished scientific work, findings, hypotheses, theories, or research approaches to third parties.

(4) Interference with the research activities of others includes:

- a) sabotage of research activities (e.g., damaging, destroying, or manipulating literature, archive and source material, experimental set-ups, equipment, documents, hardware, software, chemicals or other items required by others for research purposes),
- b) falsification or unauthorised removal of research data or records,
- c) falsification or unauthorised removal of the documentation of research data.

(5) Research misconduct by BTU personnel also arises — where intent or gross negligence is present — from:

- a) co-authorship of a publication containing falsifications or unauthorised appropriations of others' research achievements,
- b) neglecting supervisory duties if another person has objectively committed research misconduct as defined in paragraphs 1 to 4 and this misconduct could have been prevented or significantly hindered by appropriate and reasonable supervision.

(6) <sup>1</sup>Research misconduct also results from intentionally participating (as an instigator or accessory) in another person's misconduct as defined in these statutes. <sup>2</sup>Shared responsibility for research misconduct may also arise from awareness of others' falsifications without reporting them.

(7) Research misconduct by reviewers or BTU committee members occurs if they intentionally or through gross negligence:

- a) make unauthorised use of research data, theories, or findings they encountered in their capacity as reviewer or committee member for their own scientific purposes,
- b) disclose data, theories, or findings obtained as a reviewer or committee member to third parties without authorisation in violation of confidentiality,
- c) fail to disclose to the appropriate authority any facts or circumstances that may indicate a potential conflict of interest in their role as a reviewer or committee member.

(8) Research misconduct also occurs if a reviewer or committee member at BTU, in an attempt to gain an advantage for themselves or another person, knowingly fails to disclose information which would constitute research misconduct by another person as defined in paragraphs 1 to 5.

## § 23 Initiating an investigation

(1) <sup>1</sup>Complainants should report their suspicion to one of the ombudspersons as specified in § 19. <sup>2</sup>External parties may also contact the ombudspersons regarding allegations of research misconduct against BTU research staff. <sup>3</sup>Suspected cases should be reported and submitted in writing. <sup>4</sup>In exceptional cases, complaints can be made orally, in which case the recipient must document it in writing. <sup>5</sup>If a complainant reports their suspicions directly to a member of the Investigation Commission, the commission member must forward the complaint to the relevant ombudsperson.

(2) <sup>1</sup>By way of derogation from § 19 paragraph 2 of these statutes, §§ 22 et seq. of the German Code of Criminal Procedure shall apply regarding concerns about the impartiality of ombudspersons in their role during proceedings under Part III. <sup>2</sup>Decisions shall be made by the Investigation Commission in accordance with § 25 of these statutes.

(3) One of the competent ombudspersons shall confidentially assess whether there are sufficiently substantiated indications that a person has committed a prosecutable offence as outlined in § 22.

(4) If an ombudsperson concludes that there are sufficiently substantiated suspicions in the matter, a preliminary review shall be initiated in accordance with paragraph 3.

## § 24 Preliminary review

(1) <sup>1</sup>As part of the preliminary review, the ombudsperson examines the reported suspicions and based on available information, determines whether this fulfils the assumption of suspected research misconduct. <sup>2</sup>Where possible, without compromising the inquiry, the ombudsperson may notify the accused in writing of the allegation and request a statement on the accusation. <sup>3</sup>The accused should submit a statement in writing to the ombudsperson within a maximum period of four weeks. <sup>4</sup>If absolutely necessary, the ombudsperson may obtain external expertise to

assess the facts of the case. <sup>5</sup>All persons involved are required to maintain confidentiality, as instructed by the ombudsperson.

(2) <sup>1</sup>The ombudsperson shall investigate the facts insofar as it is possible within their available resources and limitations. <sup>2</sup>In doing so, they secure potential evidence. <sup>3</sup>All findings and actions are to be documented in an appropriate form by the ombudsperson. <sup>4</sup>Documentation must be maintained in text form and safeguarded from unauthorised access.

(3) <sup>1</sup>After completing an investigation to establish the facts and after considering all pertinent evidence, including responses, the ombudsperson shall decide promptly on how to proceed. <sup>2</sup>The decision shall be based on whether the evidence suggests a finding of research misconduct by the Investigation Commission is more likely than termination of the proceedings (sufficient suspicion). <sup>3</sup>If there is insufficient suspicion of prosecutable research misconduct, the ombudsperson shall discontinue the preliminary review. <sup>4</sup>In cases of sufficient suspicion, the ombudsperson informs the president of the preliminary findings.

(4) <sup>1</sup>Based on the ombudsperson's findings, the president shall decide whether, in addition to initiating a formal investigation, further steps should be taken under employment, criminal, or civil service law due to suspected research misconduct, or if the investigation should initially be carried out exclusively by the Investigation Commission. <sup>2</sup>The president immediately informs the ombudsperson of their decision and discusses how to proceed.

(5) <sup>1</sup>After consulting with the president, the ombudsperson shall initiate a formal investigation and inform the Investigation Commission of the facts of the case. <sup>2</sup>The accused shall be notified in writing of the initiation of formal proceedings.

(6) <sup>1</sup>If no formal investigation is initiated due to insufficient suspicion of prosecutable research misconduct, the complainant shall be informed in writing. <sup>2</sup>The main points that led to the decision shall be stated. <sup>3</sup>The complainant shall be granted the right to appeal against the decision within a period of two weeks. <sup>4</sup>If an appeal is filed within two weeks; the ombudsperson shall review the decision. <sup>5</sup>The complainant must be informed of the outcome of their appeal in writing.

(7) <sup>1</sup>If the period for filing an appeal has expired without a result or an appeal has not led to a different decision, the accused will be notified in

writing of the termination of the proceedings in accordance with these statutes, with an explanation of the main reasons, provided the accused was informed of the suspicion of possible research misconduct during the preliminary review. <sup>2</sup>The possibility of initiating separate steps under employment, criminal, or civil service law remains unaffected by this.

## § 25 Investigation commission

(1) <sup>1</sup>BTU has a standing commission tasked with investigating allegations of research misconduct (the Investigation Commission). <sup>2</sup>The Investigation Commission is composed of seven voting members who should cover as broad a range of subjects as possible from the faculties. <sup>3</sup>The members include:

- Four members from the group of university teachers pursuant to § 4 paragraph 1 (2a) of BTU's Constitution,
- Two members from the group of academic employees, including all personnel categories specified in § 4 paragraph 1 (2b) of BTU's Constitution, and
- One member from BTU's Ethics Commission, selected from either the group of university teachers or academic employees.

<sup>4</sup>One member from the group of university teachers should not be a member or affiliate of the BTU, and at least one member should be qualified to serve as a judge. <sup>5</sup>A deputy shall be appointed for each member of the commission in the event of potential conflicts of interest or incapacity.

(2) The Investigation Commission elects a chairperson and a deputy chairperson from among its BTU-affiliated members.

(3) <sup>1</sup>The members representing the university teachers and academic employees groups, along with their deputies, are elected by the senate based on the recommendation of the president, who also appoints them. <sup>2</sup>The member from the Ethics Commission and their deputy are nominated by the Ethics Commission chairperson and then appointed by the president. <sup>3</sup>The term of office is governed by § 9 of BTU's Constitution. <sup>4</sup>Re-election and re-appointment are permitted.

(4) <sup>1</sup>The ombudspersons shall be permanent guests of the Investigation Commission in an advisory capacity. <sup>2</sup>At any time and if necessary, the commission may invite additional experts to

serve in an advisory capacity if they have specific scientific knowledge or experience in dealing with relevant procedures.

(5) <sup>1</sup>When dealing with a conflict of interest or the prolonged absence of a commission member, their deputy shall assume their responsibilities. <sup>2</sup>For dealing with conflicts of interest the provisions of §§ 22 et seq. of the German Code of Criminal Procedure (StPO) apply. <sup>3</sup>Any voting member of the commission, ombudsperson, or accused person may raise an objection regarding concerns of potential bias. <sup>4</sup>The commission shall decide on the objection, excluding the person against whom the recusal is directed. <sup>5</sup>However, procedural actions that cannot be postponed may proceed as necessary.

(6) <sup>1</sup>The Investigation Commission conducts its work confidentially and meets in private, in accordance with § 7 paragraph 9 of BTU's Constitution. <sup>2</sup>Resolutions require a qualified majority of the university teachers. <sup>3</sup>A quorum is established when at least four voting members are present and able to vote.

(7) <sup>1</sup>Commission members and their deputies shall operate independently, in particular free from directives or informal case-specific influence from university management and other university bodies. <sup>2</sup>Confidentiality is maintained throughout their work. <sup>3</sup>The same confidentiality requirements apply to invited experts and any support staff who are consulted in an advisory capacity.

(8) The current composition of the Investigation Commission can be found on BTU's intranet page for the Commission for Investigating Allegations of Research Misconduct.

## § 26 Formal investigation procedure

(1) <sup>1</sup>The Investigation Commission shall schedule a meeting without undue delay. <sup>2</sup>In good time before the meeting, the accused shall be given the opportunity to either make an oral statement to the commission (hearing) or respond to the allegation in writing. <sup>3</sup>The complainant shall also be given another opportunity to comment. <sup>4</sup>If the accused waives their right to provide an additional statement, this action must not be used to their disadvantage. <sup>5</sup>In such cases, the decision shall be based on the case file.

(2) <sup>1</sup>The commission may hear additional persons whose statements it deems useful for the

investigation based on its own discretion. <sup>2</sup>Regarding possible rights to refuse testimony, the provisions of the German Code of Criminal Procedure apply accordingly.

(3) <sup>1</sup>Any person appearing before the commission has the right to bring a trusted individual as counsel. <sup>2</sup>The commission must be informed in good time.

(4) <sup>1</sup>The Investigation Commission shall examine whether research misconduct has been proven to its satisfaction in accordance with the established principles of free appraisal of evidence. <sup>2</sup>Research misconduct can only be established by a majority decision within the commission. <sup>3</sup>The deliberations are subject to confidentiality. <sup>4</sup>The commission retains the authority to terminate proceedings due to the absence of sufficient suspicion or in cases of minor misconduct due to insignificance. <sup>5</sup>In the event of a termination of proceedings, the complainant has no right to appeal.

(5) § 21 paragraphs 8 and 9 shall apply accordingly to any potential disclosure of the complainant's identity.

(6) <sup>1</sup>The Investigation Commission shall submit a final investigation report to the university management, including the commission's recommendations for sanctions in a timely manner. <sup>2</sup>The essential basis of the commission's decision shall be communicated.

(7) In compliance with data protection regulations, the documents related to the formal investigation are to be retained by the university for 10 years.

## § 27 Conclusion of the proceedings

(1) <sup>1</sup>Based on the investigation report and in accordance with its due discretion, university management shall decide whether research misconduct by the accused has been established and, if so, what sanctions and measures will be imposed. <sup>2</sup>If the withdrawal of an academic degree is considered as a possible measure; the relevant authorities must be involved.

(2) <sup>1</sup>If the accused or complainant is a member of the university management, they are excluded from the decision-making process in the proceedings. <sup>2</sup>If the president is implicated as either the accused or complainant, they shall be replaced by the relevant member of the federal state government responsible for universities in accordance with § 21 of the Administrative Pro-

cedure Act (VwVfG). <sup>3</sup>For other members of university management, the provisions of § 21 VwVfG apply in accordance with the regulations governing their supervisory responsibilities.

(3) <sup>1</sup>The decision and its key reasons shall be communicated in writing to both the complainant and the accused after the hearing. <sup>2</sup>The parties may only pursue the legal remedies granted to them by law against this decision.

(4) <sup>1</sup>The decision may also be communicated to the affected research organisations and third parties who have a legitimate interest in the decision. <sup>2</sup>University management decides, at its discretion, whether and how this communication takes place. <sup>3</sup>They also decide whether and how the public is informed about the decision. <sup>4</sup>Communication in accordance with this paragraph may include an explanation of the reasoning.

(5) <sup>1</sup>At the end of an investigation, care must be taken to ensure that individuals who were involved in research misconduct through no fault of their own suffer no further harm to their personal and scientific integrity. <sup>2</sup>Appropriate measures may include counselling by the ombudspersons or a written, and if necessary, public statement by BTU declaring that the person concerned bears no responsibility for research misconduct. <sup>3</sup>The decision on this matter is made at the discretion of the president.

## § 28 Possible sanctions and measures

(1) If the university management considers research misconduct to be proven, it may impose the following sanctions and/ or take the following measures, either individually or cumulatively, in accordance with the principle of proportionality:

- a) In cases of minor misconduct, a reprimand may be issued, which should generally also be communicated to the department or other organisational units to which the person concerned belongs.
- b) Requesting the accused person to retract or correct incriminated publications or refrain from publishing incriminated manuscripts.
- c) Withdrawal of funding decisions or from funding contracts, insofar as the decision was made by the university or the contract was concluded by the university, and if necessary, the reclaiming of funds.
- d) Exclusion from serving as a reviewer or supervisor of research work, as well as serving

as a member of university committees for a specified period of time.

- e) For university employees: warning, reprimand, or dismissal.
  - f) For university civil servants: disciplinary proceedings under civil service law, including provisional measures in accordance with the State Disciplinary Act (LDG).
  - g) Filing a criminal complaint with the police or public prosecutor.
  - h) Filing an administrative offence report with the competent authority.
  - i) Asserting claims under civil law, also by way of interim legal protection, including but not limited to:
    - Claims for compensation for damages, restitution or injunctive relief,
    - Enforcing civil law consequences, such as issuing a ban from university premises or asserting claims for restitution against the person concerned (e.g., regarding stolen research material),
    - Claims for removal and injunctive relief under copyright, personal rights, patent and competition law,
    - Claims for repayment (e.g., of scholarships, third-party funds, or similar),
    - Damage compensation claims by BTU,
    - Disciplinary actions for student misconduct in accordance with § 15 paragraph 1, 2, and 3 of the Brandenburg Higher Education Act (BbgHG) (with reference to BTU's Statutes on Disciplinary Proceedings of 13 July 2015 (Official Gazette 02/2015)).
  - j) Asserting potential public law claims, including by way of interim legal protection.
  - k) Initiating a process to revoke an academic degree or authorisation to teach, or recommending the initiation of such proceedings.
- (2) Sanctions and measures other than those listed in paragraph 1 may only be imposed if they are proportionate in view of the rights and legitimate interests of the accused person.
- (3) Measures pursuant to paragraph 1 shall not be deemed unlawful solely because they were not stated in the notice pursuant to § 27 paragraph 3.

(4) The applicable provisions of the examination, study, doctoral, and habilitation regulations remain unaffected.

## **§ 29 Transitional provisions / Applicability to persons leaving BTU**

(1) Acts of research misconduct in accordance with § 22 only apply to actions that were committed after these statutes came into force.

(2) <sup>1</sup>The procedural rules of this part shall only apply to notices received after these statutes came into force. <sup>2</sup>Preliminary reviews and examinations as well as investigative procedures already in progress at the time these statutes entered into force shall be concluded in accordance with the previously applicable procedural rules.

(3) Misconduct may also be prosecuted even if the accused is no longer engaged in research activities at BTU, provided that they were scientifically active at BTU at the time of the misconduct.

## **Part IV Final provisions**

### **§ 30 Entry into force/ Expiration**

<sup>1</sup>These statutes enter into force the day after its publication in the Official Gazette of the BTU.

<sup>2</sup>At the same time, the Statutes for Safeguarding Good Research Practice at BTU (GWPS BTU) dated 2 March 2018 (Official Gazette No. 03/2018, dated 5 March 2018) shall expire.

Cottbus, 20 July 2023

Signed Petrick

Prof Dr Ingolf Petrick  
Chair of the Senate

Issued on the basis of the Senate's resolution of 20 July 2023, after consultation with the faculties and approval by the President of Brandenburg University of Technology Cottbus–Senftenberg on 25 July 2023.