

Vice-Chancellor

Regulations on the handling of matters relating to suspected misconduct in research, artistic research or development work at Lund University

These regulations enter into force on 20 April 2017 and replace the previous regulations from 19 March 2015 (reg. no STYR 2015/143).

Pursuant to Chapter 2 Section 5 of the Higher Education Act (1992:1434) Lund University adopts the following regulations.

Procedure for dealing with misconduct in research, artistic research or development work

General

Section 1

Where there are suspicions of misconduct in research, artistic research or development work, the following procedure shall be applied.

When there are suspicions of misconduct in research funded by the United States (USA) body the Public Health Service (PHS), the specific rules in cases of suspected scientific misconduct in research supported by the USA through the PHS, as stated below, shall also apply.

In these regulations, the term ‘misconduct’ refers to actions or omissions in connection with research, artistic research or development work that lead to false or distorted research results or provide misleading information about an individual’s contribution to the research, such as falsification or fabrication, plagiarism, unauthorised use of information given in confidence, unwarranted assertion of authorship, or failure to follow ethical rules or equivalent rules and recommendations given by the Regional Ethical Review Board and the Central Ethical Review Board or other public authority.

Every individual who participates in research, artistic research or development work at Lund University has an obligation to ensure that results are obtained, compiled and presented in line with the values held by the research community. This means that supervisors and co-authors shall ensure that what emerges from

research, artistic research or development work is honestly obtained and correctly described.

Liability requires that the misconduct has been committed intentionally or through gross negligence.

Section 2

This procedure is not applicable in the case of attempts to deceive during examinations or other forms of assessment of study performance in third-cycle studies, which instead shall be dealt with pursuant to Chapter 10 of the Higher Education Ordinance.

Section 3

The University shall accept that errors of judgement and interpretation made in good faith do not constitute misconduct and that reports of suspected research misconduct can be made in error, but in good faith.

Section 4

The University shall:

1. inform academic and administrative staff of rules in force in the area
2. on receiving a report, if it is not dismissed without further action, undertake preliminary investigations promptly in order to ascertain whether there is cause to investigate the allegations of misconduct in research, artistic research or development work further
3. where justified, undertake a full investigation and, where misconduct is proven, take appropriate measures.

Section 5

The responsibility for investigating suspected misconduct in research, artistic research or development work lies with the *Research Misconduct Review Board*, below called the Board. The Board is also responsible for presenting recommendations for measures to the vice-chancellor.

The Board is made up of the university director, a legal counsel and two representatives of teaching staff employed at Lund University with high academic expertise and integrity. The university director is always included in the Board. The other members sit for three years and their term of office can be renewed.

The teaching staff representatives on the Board are appointed by the vice-chancellor after consultation with the faculties of the University. One of the teaching staff representatives chairs the Board. The vice-chancellor decides which of the two will be the chair. The vice-chancellor also appoints the legal counsel who is to sit on the Board. If necessary, the vice-chancellor can decide to temporarily replace one of the Board members (including the chair) by co-opting a replacement, or to appoint additional members to the Board. In matters concerning doctoral students, a student representative, appointed by the Lund University Students' Unions (LUS), shall be co-opted.

The Board shall be assisted by a member of administrative staff.

The University's faculties shall, at the request of the Board, assist the Board in its work in accordance with the requests made. The faculty deans shall ensure that this occurs.

In investigations, the Board, in accordance with the rules in the Administrative Procedure Act, shall ensure that there are no conflicts of interest.

The relevant faculty shall ensure that those concerned receive the required support through the period of stress caused by allegations of misconduct in research, artistic research or development work.

Section 6

Suspected misconduct in research, artistic research or development work shall be reported immediately in writing to the University. The report shall be submitted to the university director at Lund University.

The Board shall promptly inform the vice-chancellor and the relevant faculty management of the reported suspicion of misconduct in research, artistic research or development work.

The Board is responsible for ensuring that the reported individual is promptly informed of the existence of the report.

Section 7

The Board shall arrange for the matter to be investigated. The Board shall first arrange for a preliminary investigation and then, if the Board considers that there are grounds, propose to the vice-chancellor that a full investigation be conducted. The Board is responsible for ensuring that the full investigation is performed.

If the Board considers that there are no grounds for the reported suspicion, the Board can propose that the vice-chancellor dismiss the report without further action, i.e. without the Board first having conducted a preliminary investigation.

Section 8

In the course of the investigation, the Board can obtain a statement from the expert group on research misconduct at the Central Ethical Review Board.

The statement is to be obtained from the expert group at the request of the person who has reported the suspicion of misconduct or the person suspected, unless the Board finds it clearly unnecessary (Chapter 1 Section 16 of the Higher Education Ordinance).

The Board may, in the course of the investigation, obtain information from other public authorities and, when necessary, decide to transfer parts of the investigation to other authorities, e.g. with regard to reports concerning an authority's supervisory role.

Preliminary investigation

Section 9

Unless the last sentence of Section 7 applies, a report of suspected misconduct shall prompt a preliminary investigation by the Board. The Board is responsible for the preliminary investigation.

Section 10

The preliminary investigation shall be carried out promptly, maintaining the greatest possible confidentiality to protect both the person suspected of misconduct in research, artistic research or development work and the person presenting the allegation. The preliminary investigation is to determine whether a full investigation of the case is required.

In the preliminary investigation, facts in the matter shall be gathered and the person suspected of misconduct shall be offered the opportunity to respond orally or in writing to the allegation and other information that has been submitted in the matter by other people. Interviews may also need to be held with other parties during the investigation.

If necessary, the Board can appoint a subject expert during the preliminary investigation or request a statement from the expert group on research misconduct at the Central Ethical Review Board.

When interviews are held with individuals in the preliminary investigation, an official note shall be produced that renders what the person has said.

The preliminary investigation shall be completed promptly.

The preliminary investigation shall maintain the greatest possible confidentiality to protect both the person reported and the person making the report.

Section 11

The Board shall document the preliminary investigation. The preliminary investigation shall result in a written report to the vice-chancellor of the allegations and the investigation, as well as the Board's conclusions and proposal for a decision.

Section 12

The vice-chancellor must then decide whether the situation is such

- a) that the matter is to be dismissed without further action, or
- b) that a full investigation of the matter is to be carried out, or
- c) if a full investigation is clearly unnecessary, that the individual reported is guilty of misconduct in research, artistic research or development work.

Full investigation

Section 13

The full investigation shall be opened promptly. The Board is responsible for the full investigation.

Section 14

The Board shall ensure that the case is thoroughly investigated in the full investigation.

In the full investigation, the Board shall be assisted by at least two subject experts linked to other higher education institutions.

Instead of being assisted by at least two subject experts, the Board may obtain a statement from the expert group on research misconduct at the Central Ethical Review Board. Such a statement may be obtained even if the two subject experts have already assisted the board.

The Board shall give the person reported for alleged misconduct and the person who filed the report the opportunity to make a statement on the matter to the Board. The person reported has the right to be present when the person who filed the report makes a statement before the Board, unless there are specific reasons to the contrary, and the person reported is to be given the opportunity to respond to the allegations at the meeting. If it finds it appropriate, the Board may decide to allow the person who filed the report to be present at the meeting when the person reported speaks to the Board.

When interviews are held with individuals in the investigation, an official note shall be produced that renders what the person has said.

The greatest possible confidentiality shall be maintained in the investigation to protect both the person reported and the person who filed the report.

Section 15

The Board shall document the entire investigation. It is to result in a written report to the vice-chancellor which shall document the allegation and the investigation and include the Board's conclusions and a proposal for a decision.

Section 16

The vice-chancellor must then decide whether the situation is such

- a) that the matter is to be dismissed without further action, or
- b) that the individual reported is guilty of misconduct in research, artistic research or development work.

If there is valid reason, the vice-chancellor can take a different position.

Section 17

The Board is responsible for communicating the vice-chancellor's decision in the best way possible.

If the matter is dismissed without further action, the University shall, in consultation with the person whom the allegation concerned, take measures to spread this information to the research community and wider society. The University shall ensure that the person who filed the report and the person whom the allegation concerned receive the support and the resources needed to resume their work.

With regard to the person who has submitted an allegation of suspected misconduct in good faith, but where the allegation could not be verified, the University shall work to ensure that the individual is not subjected to reprisals as a result of his or her actions.

In cases where the investigation shows that a person who is guilty of misconduct in research, artistic research or development work, the relevant sections of the research community shall be directly informed of this. How the information is to be provided is decided by the circumstances of the specific case. Any measures decided are to be taken by the faculty concerned.

Section 18

With regard to professional misconduct pursuant to Chapter 20 of the Swedish Penal Code or to neglect of duty pursuant to the Public Employment Act (section 14), a decision on the referral of the matter to the National Disciplinary Board, in cases involving professors, shall be made by the vice-chancellor. The National Disciplinary Board shall then make a decision on whether disciplinary action is to be taken or if the matter is to be reported for prosecution.

For professional misconduct or neglect of duty committed by other categories of staff, decisions whether disciplinary action is to be taken or if the matter is to be reported for prosecution are taken by the University's Staff Disciplinary Board.

Specific rules in cases of suspected scientific misconduct concerning research supported by the USA through the Public Health Service (PHS)

Section 1 Application and definitions

In addition to the above procedure for dealing with suspected research misconduct, the following shall apply for research financed by the Public Health Service (PHS) and arranged through one of its agencies, in this context the National Institutes of Health (NIH).

In cases of suspected scientific misconduct relating to research financed through funding from the PHS, the University shall, in accordance with the conditions of the agreement, follow the rules in the Policies on Research Misconduct, 42 CFR (Code of Federal Regulations) Parts 50 and 93 and the NIH Grant Policy Statement Part II: Terms and Conditions of NIH Grant Awards.

The Office of Research Integrity (ORI) is a body within the US Department of Health and Human Services that has the task of monitoring and taking responsibility for issues relating to research and integrity.

Section 2 Research misconduct

‘Research misconduct’ refers to the circumstances stated in CFR 93.103. This definition corresponds to the University’s definition of research misconduct.

Section 3 Obligation to notify the ORI immediately in particular circumstances.

If any of the following situations arise, the ORI shall be informed immediately (CFR 93.318):

1. The health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
2. US state resources or interests are under immediate threat.
3. There is reasonable indication of possible violations of civil or criminal law.
4. There is an immediate need to safeguard evidence.
5. There is an immediate need to protect the interests of those subject to or presenting the allegation.
6. The research community or public should be informed of what has been discovered as soon as possible.

Section 4 Preliminary investigation

The preliminary investigation shall be completed within 60 days of its initiation (CFR 93.307).

If the Board finds that a preliminary investigation should be terminated, this shall be reported to the ORI as soon as possible stating the reasons why (CFR 93.316 b).

Section 5 Full investigation

The ORI shall be notified in writing within 30 days of the decision to open a full investigation. A copy of the preliminary investigation shall be enclosed with the notification (CFR 93.309).

The full investigation shall be started within 30 days of the decision to open a full investigation (CFR 93.310).

The full investigation should be completed within 120 days of the start of the investigation. If this is not possible, a respite shall be sought from the ORI (CFR 93.311 and 93.313).

If there is reason to terminate a full investigation, this shall be reported as soon as possible to the ORI stating the reasons why. The final decision will then be taken by the ORI (42 CFR 93.316 b).

Section 6 Measures following a decision

Once the vice-chancellor has made a decision on a matter of misconduct, the decision, together with the Board's investigation and the experts' statements, shall be submitted to the ORI as soon as possible (CFR 93.315).

Section 7 Documentation

All documentation relating to inquiries opened on research misconduct or suspected research misconduct shall be kept for at least seven years so as to be made available on request to the ORI or authorised staff of the PHS (CFR 93.309 c).