

# REGULATIONS OF THE NETHERLANDS BOARD ON RESEARCH INTEGRITY (LOWI) 2018

## Preamble

The Regulations of the Netherlands Board on Research Integrity 2018 (hereinafter: LOWI Regulations) were adopted on 20 March 2018 by the LOWI's Constituent Organisations, namely the Board of the Royal Netherlands Academy of Arts and Sciences (Academy), the Praesidium of the Association of Universities in the Netherlands (VSNU) and the Board of Management of the Netherlands Organisation for Scientific Research (NWO) and entered into effect on 21 March 2018. These LOWI Regulations supersede the LOWI Regulations that entered into effect on 1 January 2014.

## Definitions and competence

### Article 1 Definitions

Defendant	A researcher employed (or formerly employed) by an Institution and who is or has been conducting research in connection with or under the authority of that Institution, whether or not by virtue of an appointment or an employment contract, and in respect of whom a complaint has been submitted to the Committee or the Board or who has been the subject of an ex officio investigation initiated by the Board.
Interested Party	The original Complainant or Defendant, who has not submitted a Petition to the LOWI.
Board	The Board of an Institution, which has been authorised to issue a Ruling.
Committee	The Research Integrity Committee of the Institution, which has the task of investigating (Complaints concerning) alleged violation(s) of research integrity and advising the Board on such matters.
Institution	A LOWI-affiliated Institution, namely the Constituent Organisations of the LOWI and any other Institutions recognised as affiliated Institutions.  The Constituent Organisations of the LOWI are the Academy (and its institutes), NWO (and its institutes) and the VSNU (with the Dutch universities, including university medical centres).
Complaint	The reporting by a Complainant to the Committee or the Board of an alleged violation of research integrity by the Defendant.
Complainant	The person who has brought a Complaint to the Committee or the Board.
LOWI	The Netherlands Board on Research Integrity.
Ruling	A provisional or final Ruling issued by the Board of an Institution with reference to a complaint concerning an alleged violation of research integrity by the Defendant or with reference to an official investigation into an alleged violation of research integrity by the Defendant.  'Ruling' also refers to a written refusal by the Board to issue a Ruling.

Parties	Petitioner and the Board.  'Party' also refers to any Interested Party who, when asked, has indicated their willingness to participate in the LOWI's proceedings.
Confidential adviser	A person whom an Institution has appointed as a point of contact for questions and Complaints concerning alleged violation(s) of research integrity.
Petition	A Petition to the LOWI to advise the Board in respect of a Ruling.
Petitioner	A person who submits a Petition to the LOWI and who has been the initial Complainant or the Defendant in the Institution's complaints procedure.
Academic practice	Academic practice as defined in the Netherlands Code of Conduct for Academic Practice.  'Academic practice' also refers to the preparation and assessment of research proposals and research programmes with a view to obtaining funding or recognition, and to the publication of the results of research.
Research integrity	Standards for academic practice arising from the Netherlands Code of Conduct for Academic Practice.

## **Article 2 – Competence of the LOWI**

1. The LOWI will at the Petitioner's request advise the Board on the Ruling.
2. The opinion issued by the LOWI is not binding.
3. The LOWI issues an opinion independently of the Institutions and other third parties.

## **General procedural provisions**

### **Article 3 – Excusal**

1. The LOWI will take steps to prevent members of the LOWI or persons working for the LOWI who have been in any way involved in a case from influencing the opinion issued by the LOWI.
2. Any member of the LOWI who has been in any way involved in a case will excuse themselves.

### **Article 4 – Duty of confidentiality**

1. To ensure that each Petition is treated with care by the LOWI, the Parties have a duty to maintain confidentiality regarding the Complaint and the Petition at least from the announcement of the Ruling to the announcement of the final Ruling.
2. The duty of confidentiality as specified in Subsection 1 also applies to experts and other third parties involved in dealing with the Petition as well as to the LOWI's members and secretariat.
3. If the duty of confidentiality is violated, the LOWI will be entitled to draw its own conclusions.

### **Article 5 – Assistance**

1. The Parties can call in assistance or be represented by an authorised representative.
2. The LOWI may request an authorised representative to provide a written authorisation.
3. The LOWI may refuse to allow the Parties to be assisted or represented by a person against whom there are serious objections.

4. Subsections 2 and 3 shall not apply to lawyers.

## **Provisions concerning the submission and admissibility of a Petition**

### **Article 6 – Submitting a Petition**

1. The Petitioner must submit the Petition to the LOWI, addressed to the LOWI's offices.
2. The LOWI will acknowledge receipt of the Petition to the Petitioner.
3. The LOWI will notify the Board and the Interested Party that a Petition has been received.

### **Article 7 – Admissibility requirements**

1. The LOWI will consider the Petition only if it satisfies the admissibility requirements set out in Subsections 2 to 8.
2. The Petition relates to a Ruling by the Board.
3. The period for submitting a Petition is six weeks, commencing on the day on which the Ruling was dated.
4. The Petition is deemed to have been submitted on time if it has been received by the LOWI before the end of the period. A Petition submitted after the end of the time limit shall not be ruled inadmissible on this ground if it cannot reasonably be held that the Petitioner was in default.
5. The Petition will be submitted in writing by regular post. It is not possible to submit a Petition electronically.
6. The Petition will be signed and contain at least:
  - the name and address of the Petitioner;
  - the date of the Petition;
  - the grounds for the Petition.
7. If such are in the Petitioner's possession, the Petition will be accompanied by:
  - a copy of the Ruling to which the Petition relates;
  - a copy of the Committee's opinion;
  - a copy of the Complaint as submitted to the Committee or the Board.
8. If the Petition is in a foreign language and a translation is necessary for the Petition to be properly dealt with, the Petitioner shall arrange for a translation.
9. If the Petition fails to satisfy the admissibility requirements as formulated in Subsections 5 to 8, the Petitioner will be given the opportunity to rectify this failure within a period specified by the LOWI. If the failure has not been rectified within the specified period, the LOWI may decide to declare the Petition inadmissible. The Parties will be notified of the decision to declare the Petition inadmissible as soon as possible, but not later than within four weeks of the expiry of the rectification period.

### **Article 8 – No obligation to consider a Petition**

1. The LOWI is not obliged to consider the Petition or to continue considering a Petition, where:
  - a. the Petition is clearly unfounded;
  - b. the Petition relates to a Ruling;
    - in respect of which a Petition had already been submitted to the LOWI, or
    - which is, has been or could have been submitted to the civil, administrative or criminal courts for judgment;
  - c. the Petition relates to an alleged violation of research integrity which occurred more than ten years prior to the submission of the Complaint to the Committee or the Board;
  - d. the LOWI has found that the duty of confidentiality as specified in Article 4, Subsection 1 has been violated.
2. The Parties will be notified of any decision not to consider the Petition as soon as possible, but not later than within six weeks of receipt of the Petition. The Parties will be notified of any decision not to continue consideration of the Petition as soon as possible, but not later than within two weeks of taking this decision.

## **Provisions concerning the consideration of a Petition**

### **Article 9 – Notification of the consideration of a Petition**

1. If the Petition is eligible for consideration, the LOWI will notify the Petitioner, the Board and the Interested Party accordingly, by sending a copy of the Petition and any other documents received.
2. The LOWI will ask whether the Interested Party wishes to participate in the proceedings as a Party.

### **Article 10 – Consideration of a Petition**

1. The LOWI will give the Board and the Interested Party the opportunity to submit a statement of defence within six weeks of the notification as specified in Article 9.
2. The LOWI may grant a one-time extension of not more than two weeks on the period specified in Subsection 1 on receipt of a request to this effect.
3. The LOWI will send a copy of the statement of defence from the Board and the Interested Party to the Petitioner and will give the Petitioner an opportunity to submit a response to the statement of defence from the Board and the Interested Party within two weeks of the despatch of this copy.
4. The LOWI may grant a one-time extension of not more than two weeks on the period specified in Subsection 3 on receipt of a request to this effect.
5. The LOWI will send a copy of the Petitioner's response to the Board and the Interested Party and will give the Board and the Interested Party an opportunity to submit a final response to the Petitioner's response as specified in Subsection 3 within two weeks of the despatch of this copy.
6. The LOWI will send a copy of the final response from the Board and the Interested Party to the Petitioner for information.
7. Documents submitted after the specified submission dates or after the final response from the Board and the Interested Party will be disregarded.
8. The LOWI will assess whether it has sufficient information following receipt of the final response from the Board and the Interested Party. The LOWI will decide whether it is necessary to hold a hearing and give reasons for doing so. The LOWI will notify the Parties accordingly.

### **Article 11 – Hearing**

1. If, after the assessment as specified in Article 10, Subsection 8, the LOWI considers that a hearing is necessary, it will invite the Parties to attend a hearing. If the LOWI deems it necessary for the consideration of the Petition, it may also invite a witness or a person otherwise involved in the case to attend the hearing with the Parties.
2. The hearing will not be held in public.
3. The Parties will in principle be examined in each other's presence and each will participate equally in the hearing.
4. A report will be made of the hearing.
5. The LOWI will make sound recordings for the preparation of the report. Other persons attending the hearing will not be permitted to make sound recordings. The sound recordings made by the LOWI will not be supplied to the Parties or third parties and will be destroyed after the report has been adopted.

### **Article 12 – Experts**

1. If the LOWI deems it necessary for the consideration of the Petition, it may decide to seek the opinion of one or more experts who have not been involved in the case.
2. The choice of expert and the questions to be put to the expert will be determined by the LOWI. The expert's opinion will be communicated to the LOWI.
3. If the LOWI is unable to find an expert, it may invite the Parties to recommend a maximum of three names of experts. The recommendation will include a statement of reasons. The LOWI will choose one or more experts, at its own discretion, from the recommended names.
4. The expert's opinion will be sent to the Parties by the LOWI for a response.
5. The expert's opinion will also state the expert's name.
6. The period for consideration of the Petition will be suspended while an expert opinion is sought.

## **Provisions concerning the LOWI's assessment and opinion**

### **Article 13 – Assessment**

1. Based on the Petition, the documents submitted, any expert opinion and any oral hearing of the Petition, the LOWI assesses whether the Ruling satisfies the requirements concerning the scrupulous handling of complaints and whether the Ruling is in accordance with the standards of research integrity.
2. If the LOWI believes that the investigation of the Complaint does not satisfy the requirements concerning the scrupulous handling of complaints, the LOWI may, on the basis of the information available, initiate its own investigation into the Complaint addressed by the Ruling or request the Board to re-open the investigation of the Complaint.

### **Article 14 – Opinion**

1. The LOWI's opinion includes an assessment of the well-foundedness of the Petition and an opinion on the Ruling.
2. As part of its opinion, the LOWI can also advise the Board on the necessity and severity of a measure. The LOWI is not competent to advise on disciplinary measures.
3. The LOWI's opinion will be published within six weeks of the notification as specified in Article 10, Subsection 8, or within six weeks of a hearing. This period may be extended once by a maximum of six weeks. The Parties will be notified accordingly.
4. The LOWI's opinion will be issued to the Board, with a copy to the Petitioner and the Interested Party. Where the LOWI has sought the opinion of an expert as specified in Article 12, the expert will also receive a copy of the opinion.

### **Article 15 – Publication of opinion**

1. Where an opinion has been sought from the LOWI, the Board will provide the LOWI with a copy of the final Ruling, at the same time sending the copy to the Complainant and Defendant. If the Board disregards the LOWI's opinion, this will be explained in the final Ruling, with reasons being given.
2. The LOWI's opinion will be published on the LOWI website in anonymised form within three weeks of receipt of the Ruling as specified in Subsection 1, but no later than within three months after issuing of the opinion.

### **Other provisions**

#### **Article 16 – Complaints about the LOWI**

1. Complaints about the LOWI will be submitted to the LOWI and will be handled by analogy with Title 9.1 of the Dutch General Administrative Law Act [*Algemene wet bestuursrecht*].
2. Complaints cannot be made in respect of the contents of an opinion issued by the LOWI.

#### **Article 17 – Contingency clause**

In cases not provided for in the LOWI Regulations, the Dutch General Administrative Law Act will where possible apply by analogy.

#### **Article 18 – Effective date**

These LOWI Regulations enter into effect on 21 March 2018. The LOWI Regulations that entered into effect on 1 January 2014 are withdrawn but continue to apply to Petitions submitted to the LOWI prior to 21 March 2018.

Thus adopted by the Constituent Organisations of the LOWI on 20 March 2018 on the recommendation of the LOWI.