

## Summary of LOWI opinion 2015-09

Following receipt of a complaint concerning the Petitioner's dissertation, the Board concluded that the dissertation was based on the Complainant's work. It considered this a case of plagiarism, although not extreme in nature. The Petitioner had neglected to properly reference the Complainant's work. Although attribution may be less important in this particular subject area, and neither the PhD supervisors nor the review committee had noticed the plagiarism at the time, the Petitioner bears full responsibility. As a proposed sanction, the Petitioner was instructed to 1) for a period of five years, report the plagiarism whenever he referenced the dissertation; 2) ensure that digital PhD overviews report that a complaint concerning plagiarism in his dissertation had been found valid; 3) apologise to the Complainant in writing.

The LOWI has considered as follows.

The characterisation of plagiarism is grave and the sanction is severe. Particularly harsh is the demand that the Petitioner must, for a five-year period, report the plagiarism whenever he references his dissertation or risk losing his academic title. In decisions of this kind, fact discovery, grounds, and substantiation must meet strict requirements. The burden of proof lies mainly with the Board. How these requirements should be met depends on the specific circumstances and may differ from one case to the next. What is important here is that the Petitioner has not committed the most obvious form of plagiarism, i.e. quoting (lengthy) passages of another's text (almost) verbatim without acknowledging the source. To put it briefly, the Petitioner reworked partially or fully formed ideas, some of which were in the public domain and some of which came from the Complainant's work. In doing so, he made little or no reference to the Complainant. To determine whether this constitutes plagiarism or other reprehensible behaviour requires special expertise.

The Board called in Expert 1 and asked the Petitioner's supervisors to assist in reviewing the complaint. No other enquiry was undertaken as to the veracity of the (unsubstantiated) allegations. Expert 1 concluded that the dissertation was, in essence, based on the Complainant's work. The grounds and substantiation for this conclusion are marginal, making it impossible to verify. The Petitioner mounted a detailed defence, for example pointing out errors in Expert 1's report. Expert 1 responded briefly, stressing that he had been asked to assess the potential legitimacy of the accusations, had assumed that an in-depth expert analysis would follow, and had never claimed to be an expert in the subject area in question.

The LOWI has determined that, given these circumstances, Expert 1's report does not offer adequate substantiation for the plagiarism ruling, and that the Board had sufficient reason to order a thorough analysis. The LOWI has further determined that the supervisors' responses do not in themselves provide sufficient substantiation for the characterisation of plagiarism. Their responses cannot be regarded as the opinions of independent and impartial third parties. In addition, the supervisors were asked to respond, and indeed did so, before the Petitioner had been informed about the complaint. He had yet to mount a defence at that time, in other words.

This means that there was insufficient substantiation for judging the Petitioner guilty of serious scientific misconduct, i.e. plagiarism. The petition is therefore valid in that respect. However, there is sufficient evidence that the Petitioner acted contrary to the principles of research integrity.

The two expert opinions requested by the LOWI advance more detailed arguments clarifying how the relevant experts arrived at their (wide-ranging) conclusions. Briefly, Expert 2 considers the Petitioner's actions much more reprehensible than does Expert 3. Offering detailed grounds for his opinion, Expert 3 adheres more closely to accepted practice in the subject area than does Expert 2, and is considerably more lenient. The expressions of support by Researchers 1, 2 and 3 are also important, although they do not carry as much weight as an expert opinion. They offer no framework for characterising the Petitioner's actions, but rather describe customary acknowledgment practices in the subject area.

In an earlier opinion, the LOWI ruled that when plagiarism is not obvious from the nature and length of copied texts, the boundary between plagiarism and (culpable) negligence (see also LOWI opinion 2014-10 and 2015-2) must be defined by looking at the specific circumstances of the case. The context in which the actions have taken place may also be important. In the LOWI's view, the following circumstances are especially relevant.

It is clear that researchers in the relevant subject area are less scrupulous about acknowledgment of authorship than in other fields. The LOWI would first point out that acknowledgment is a duty laid down in Article 1.4 of the Netherlands Code of Conduct for Academic Practice. It is a rule that must be fully applied in every scientific field, and it is bad practice to neglect or provide inadequate acknowledgment. Nevertheless, the practices described by those involved – indirect referencing and faulty acknowledgment – play a significant role in this case. After all, Article 1.4 of the Netherlands Code of Conduct for Academic Practice states that researchers should follow 'the rules common to the scientific discipline' with regard to acknowledgment. That does not mean that they should adopt bad habits, of course, but it does indicate that acknowledgment systems may differ from one subject area to the next. Regarding the characterisation of the Petitioner's actions, it is significant that the relevant subject area deals less scrupulously with acknowledgment than other areas.

Given the research climate in the relevant subject area, then, the supervisors should have paid close attention to the rules (at that point unwritten) concerning proper acknowledgment, especially because the Petitioner was an inexperienced researcher who had been trained abroad. There is nothing to indicate that they did so, however.

Nevertheless, it is the Petitioner who bears primary responsibility. He clearly knew that he should acknowledge authorship because he had, in fact, referenced the Complainant's work on a previous occasion (although inadequately). He is to blame for the faulty acknowledgment in his dissertation. However, the grave characterisation of plagiarism has not been properly substantiated in substantive terms, and is further precluded by the exceptional circumstances described above.

As the LOWI considered in earlier opinions (see LOWI opinion 2014-02), in cases where the characterisation of plagiarism is deemed too extreme, a Board may decide that the principles of

research integrity have nevertheless been violated owing to culpable negligence. That is the case here. Undeniably, the Petitioner should have inserted a direct reference to the Complainant's paper but neglected to do so. The Petitioner failed to include proper acknowledgment at several points in his dissertation. That was negligent of him. Since his dissertation contained repeated instances of negligence, the Petitioner can be deemed to have acted culpably and consequently to have violated the principles of research integrity. A sanction is therefore appropriate – but a different type of sanction than the one proposed.

The LOWI finds the petition valid insofar as it concerns the ruling that the Petitioner has committed plagiarism and insofar as it concerns the severity of the proposed sanction. The LOWI had advised the Board to revise its decision and, in its final decision, rule that the Petitioner has violated the principles of research integrity by acting with culpable negligence. The LOWI would consider the following sanction appropriate: a) the Petitioner should include a correct and proper reference to the Complainant's authorship in his dissertation as published on the university's website; b) the Petitioner should report that he has added this in line with proceedings in which the LOWI found the Petitioner guilty of culpable negligence; c) the Petitioner should apologise to the Complainant in writing for the faulty acknowledgment and refer him to the amended dissertation.

On 8 September 2015, the Board issued its final decision in line with the LOWI's opinion.