

Summary of LOWI opinion 2018-18 and 19

Keywords: violation of duty of confidentiality, academic practice, audit report

Relevant provisions: principles 2.3, 4.4 and 4.5 of the Netherlands Code of Conduct for Academic Practice, paragraph 1.5 of the Netherlands Code of Conduct for Academic Practice, article 4, first and third paragraph, article 8, first paragraph, and article 13, second paragraph of the LOWI Regulations 2018.

Board involved: Executive Boards, Leiden University and VU Amsterdam

Petition

Two auditors were requested by the Board of Petitioner's university to start an audit procedure on a publication of Petitioner in a scientific journal. According to the Petitioner, the auditors have violated the research integrity by using references without given permission. Moreover, confidentiality has been violated as well, as the Petitioner has been consulted insufficiently. Finally, the audit report is one-sided and biased.

Opinion of the RIC & decision by the Board

According to the RIC, no scientific research has been conducted and the audit report does not meet the essential requirements for a scientific publication or research. The RIC advises the Board to rule the complaint inadmissible. The Board complies with the advice of the RIC.

The Petitioner's most relevant objections are as follows:

- The RIC advice as well as the audit report indicate that the audit procedure was meant to guarantee research integrity.
- The auditors are involved in scientific research as individual academic practitioners. In this role, they have been requested to do the audit procedure which, according to the Preamble of the Netherlands Code of Conduct for Academic Practice, falls within the scope of the Code.
- The Code also applies to those who are administratively responsible for academic practice, which should not be limited to science in the narrow sense.

Below are the most relevant considerations in the LOWI's opinion:

- The Petitioner has stated that the auditors have violated the duty of confidentiality as they presented an e-mail from the dean, and he requests the LOWI to draw its conclusions. The LOWI has refused the request because there is no factual basis to take action. The e-mail does not result in the conclusion that the auditors informed the dean about the outcome of the complaint procedure and the proceedings pending before the LOWI.
- With regard to an integrity complaint about an academic practitioner, the Netherlands Code of Conduct for Academic Practice is leading for reviewing whether his actions are qualified as academic practice (academic teaching and research). The Netherlands

Code of Conduct for Academic Practice does not define scientific research. This definition has been interpreted in practice, among others see the LOWI opinions 2016-05 and 2018-05.

- According to the LOWI, scientific research is characterized by the formulation of a scientific problem definition, a justification of the research in reference to previous scientific research, the aim of the publication in scientific journals and the fact that the research is aimed at the scientific forum. The characteristics as mentioned are not exclusively used to qualify actions as academic practice, neither is the list meant to be exhaustive. To qualify actions as academic practice, it is not always necessary that all of the characteristics as mentioned are observed.
- The audit report includes a scientific problem definition, a description of the research process, an overview of the sources and websites that are relevant for the findings reported in the report, a reference list and a justification of the conclusions and recommendations made by the auditors. In short, some of the characteristics are mentioned in the report but not all. This does not result in the conclusion that it is not academic practice (LOWI opinion 2018-05). The audit report does not necessarily have to be academic practice when no general conclusions are drawn and the knowledge cannot be generalized (LOWI opinion 2016-05).
- In this case, the audit report is different. The LOWI considers that is should be qualified as scientific practice. The auditors aim to contribute to the ethics and research integrity debate by reflecting on a concrete case. From the assignment letter, it can be derived that the audit report is intended for usage to improve the integrity and ethical policy of the faculty and aims at the scientific forum.
- The LOWI has no discretion to substantively review the complaint. The RIC has not investigated the complaint substantively, the auditors did not defend themselves substantively against the accusation that they have violated the research integrity and the Petitioner has requested that the case be referred back to the Board.

LOWI ruling and opinion

The LOWI considers the petition founded. Pursuant to Article 13, second paragraph, of the LOWI Regulation 2018, the LOWI advises the Board to revise its preliminary decision by reopening the investigation into the complaint and request the RIC for a substantive review.

Final decision by the Board

The preliminary decision of the Board was to rule the complaint of the Petitioner inadmissible. Based on the advice of the LOWI, the Board has decided to reopen the investigation into the complaint for a substantive review.