

Regulations of the Netherlands Board on Research Integrity (LOWI) 2022

Preamble

The Regulations of the Netherlands Board on Research Integrity (hereinafter: LOWI Regulations) 2022 were adopted on 21 December 2021 by its Constituent Organisations, namely the Board of the Royal Netherlands Academy of Arts and Sciences (Academy), the Board of the Universities of the Netherlands (UNL), and the Executive Board of the Netherlands Organisation for Scientific Research (NWO), and entered into effect on 1 February 2022. The LOWI Regulations are based on Article 15 of the Articles of Association of the LOWI Foundation.

Definitions and competence

Article 1 – Definitions

Anonymisation	The deletion of data that could be traced to a Defendant, Interested Party, Petitioner or other natural persons with a non-professional involvement with an LOWI matter.
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 that has been authorised to issue a Ruling.
Committee	The Research Integrity Committee of the Institution, which has the task of investigating alleged violations of research integrity (and Complaints into same) and advising the Board on such matters.
Institution	An 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 UNL (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 advisory committee charged with issuing advisory opinions to the boards of the Institutions, also known as the Netherlands Board on Research Integrity.
Research integrity standards	Research integrity standards contained in the currently prevailing code of conduct, namely the Netherlands Code of Conduct for Research Integrity 2018, including any future amendments or its successor document.
Ruling	<p>An initial 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.</p> <p>‘Ruling’ also refers to a written refusal to issue a Ruling and to a Ruling that has not been issued on time.</p>
Parties	<p>Petitioner and the Board.</p> <p>‘Party’ also refers to any Interested Party who, when asked, has indicated their willingness to participate in the LOWI’s proceedings.</p>
Foundation	The LOWI Foundation, established on 12 July 2019.
Confidential adviser	A person whom an Institution has appointed as a point of contact for questions and Complaints concerning alleged violations 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, or a third party who has a direct and personal interest in the initial Ruling by the Board and who submits a petition to the LOWI.
Research	Research as meant in Section 1.1 of the Netherlands Code of Conduct for Research Integrity 2018.

Article 2 – Competence of the LOWI

1. The LOWI will, at the Petitioner's request, advise the Board on the Ruling.
2. Advisory opinions issued by the LOWI are not binding.
3. The LOWI issues its advisory opinions independently of the Constituent Organisations, Institutions and other third parties.

Article 3 – Composition of the LOWI, appointments, and termination and suspension of membership

1. The LOWI consists of at least six members, including a chair, from diverse backgrounds with regard to disciplines, gender, phase of career, and culture.
2. The members of the LOWI are appointed by the Board of the Foundation after consulting with the Advisory Board of the Foundation. The chair should preferably be a lawyer.
3. Only persons with extensive experience of research, preferably professors (including professors emeriti), preferably acquired at one or more universities in the Netherlands, who enjoy an untarnished research reputation, and who are able to deal with conflicting interests, are eligible for appointment. Any person who is a member of the Board, a confidential adviser or member of a Research Integrity Committee at an Institution shall not be eligible for appointment.
4. The members are appointed for a period of four years and may be reappointed once by the Foundation for a period of four years.
5. Membership of the LOWI ceases:
 - a. in the event of the death of the member concerned;
 - b. at the end of the period of office of the member concerned;
 - c. at the request of the member concerned;
 - d. in the event of the member concerned accepting the position of Board member, confidential adviser or member of a Research Integrity Committee at an Institution, or accepting a position as a member of the Advisory Board of the Foundation.
6. A member of the LOWI shall be relieved of their position by means of a decision by the board of the Foundation if the member concerned:
 - a. is permanently unable to perform their function due to illness or impairment;
 - b. is the subject of a final and irrevocable ruling by a court by which they have been convicted of an offence, declared bankrupt, made the subject of a debt rescheduling arrangement, awarded a suspension of payments, or committed as a result of debts;
 - c. has, according to a final ruling by an Institution, breached any of the standards in the code of conduct.
7. A member of the LOWI shall be suspended by means of a decision by the board of the Foundation if the member concerned:
 - a. has been remanded in custody;
 - b. is the subject of a non-definitive ruling by a court by which he has been convicted of an offence, declared bankrupt, made the subject of a debt rescheduling arrangement, awarded a suspension of payments, or committed as a result of debts.
8. A member of the LOWI may be suspended by means of a decision by the board of the Foundation if the member concerned is the subject of preliminary judicial investigation in relation to an offence.
9. A suspension as meant in Subsection 7 or 8 shall cease by means of a decision by the board of the Foundation as soon as the reason for the suspension no longer applies.
10. Before the board of the Foundation can take the decision referred to in Subsections 6 to 9, it shall consult the chair (or deputy chair) of the LOWI with regard to the proposed decision.

General procedural provisions

Article 4 – Excusal

1. The LOWI shall 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 advisory opinions issued by the LOWI.
2. Any member of the LOWI who has been in any way involved in a case shall excuse himself.

Article 5 – Duty of confidentiality

1. The members and the secretariat of the LOWI have a duty to maintain confidentiality about the information they receive or see in the execution of their function and the confidential nature of which they are aware of or could be reasonably expected to know.
2. The Parties have a duty to maintain confidentiality at least from the announcement of the initial Ruling until the announcement of the final Ruling regarding a Complaint, a Petition, other documents exchanged via the LOWI, and the LOWI's advisory opinion.
3. The duty of confidentiality referred to in Subsection 2 also applies to experts and other third parties involved in dealing with a Petition.
4. If the duty of confidentiality referred to in this article is violated, the LOWI will be entitled to draw its own conclusions.

Article 6 – Assistance

1. The Parties may 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 7 – Submitting a Petition

1. The Petitioner submits the Petition to the LOWI.
2. The LOWI acknowledges receipt of the Petition to the Petitioner.
3. The LOWI notifies the Board and the Interested Party that a Petition has been received.

Article 8 – 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 must relate to a Ruling by the Board.
 3. The period for submitting a Petition is six weeks, commencing on the date of the Ruling in question.
 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. Petitions may be submitted by electronic means. 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 must be signed and contain at least:
 - the name and address of the Petitioner;
 - the date of the Petition;
 - the grounds of the Petition.
 6. If such are in the Petitioner's possession, the Petition must be accompanied by:
 - a copy of the Ruling to which the Petition relates;
 - a copy of the Committee's advisory opinion;
 - a copy of the Complaint as submitted to the Committee or the Board.
 7. 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.
 8. If the Petition fails to meet the admissibility requirements stated in Subsections 5 to 7, the Petitioner will be given the opportunity to rectify this failure within a period specified by the LOWI. If said failure has not been rectified within the specified period, the LOWI may decide
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to declare the Petition inadmissible. The Parties will be notified of the decision to declare the Petition inadmissible as soon as possible, but no later than four weeks after the expiry of the rectification period.

9. The LOWI may decide to deal with a Petition confidentially if there are compelling public-interest reasons or compelling reasons relating to the interests of the Institution or the Interested Party. If the LOWI decides to deal with a Petition confidentially, the name of the Petitioner shall not be disclosed to any of the other parties.

Article 9 – No obligation to consider a Petition

1. The LOWI is not obliged to consider a Petition or to continue considering a Petition if:
 - a. the Petition is clearly unfounded;
 - b. the interests of the Petitioner in relation to an advisory opinion of the LOWI or the seriousness of the conduct are clearly deficient;
 - c. the Petition relates to a Ruling:
 - in respect of which a Petition has already been submitted to the LOWI, or
 - that has been submitted to the civil, administrative or criminal courts for judgement;
 - d. the Petition relates to an alleged violation of research integrity that occurred more than ten years prior to the submission of the Complaint to the Committee or the Board;
 - e. the LOWI has found that the duty of confidentiality as specified in Article 5, Subsection 2 has been violated.
2. The Parties will be notified of any decision not to consider the Petition as soon as possible, but no later than six weeks after receipt of the Petition. The Parties will be notified of any decision not to continue consideration of the Petition as soon as possible, but no later than two weeks after the decision has been taken.

Provisions concerning the consideration of a Petition

Article 10 – Notification of the consideration of a Petition

1. If a 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, unless the provisions of Article 8, Subsection 9 apply.
2. The LOWI will ask whether the Interested Party wishes to participate in the proceedings as a Party.

Article 11 – Consideration of a Petition

1. The LOWI will give the Board and the Interested Party the opportunity to submit a statement of defence within four weeks of the notification as specified in Article 10.
 2. The LOWI may grant a one-time extension of not more than two weeks to the period specified in Subsection 1 on receipt of a request to this effect.
 3. The LOWI will send a copy of the statements of defence from the Board and the Interested Party to the Petitioner and will give the Petitioner an opportunity to submit a response to these statements of defence within two weeks of the despatch of this copy. The LOWI will also give the Board and the Interested Party the opportunity to respond to each other's statements of defence within two weeks.
 4. The LOWI may grant a one-time extension of not more than two weeks to 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 within two weeks of the despatch of this copy. The LOWI will also give the Board and the Interested Party the opportunity to submit a final response to each
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- other's responses as referred to in Subsection 3.
6. The LOWI will send a copy of the final responses by the Board and the Interested Party to the other parties for information purposes.
 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 responses from the Board and the Interested Party. The LOWI will decide whether it is necessary to hold a hearing and give reasons for its decision. The LOWI will notify the Parties accordingly.

Article 12 – Hearing

1. If, after the assessment as specified in Article 11, 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 heard in each other's presence and each will participate in the hearing on an equal basis.
4. A report will be made of the hearing.
5. The LOWI will make sound recordings for the preparation of the report. No other persons attending the hearing will be permitted to make sound recordings or record any images. 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 13 – Experts

1. If the LOWI deems it necessary for the consideration of the Petition, it may decide to seek the advisory opinion of one or more experts who have no involvement with 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 advisory 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 experts. The recommendations must 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 advisory opinion will be sent to the Parties by the LOWI for a response.
5. The expert's advisory opinion will also state the expert's name.
6. The period for consideration of the Petition will be suspended while an expert's advisory opinion is sought.

Provisions concerning the LOWI's assessment and opinion

Article 14 – Assessment

1. Based on the Petition, the documents submitted, any expert advisory opinions 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 15 – Advisory opinion

1. The LOWI's advisory opinion includes an assessment of the well-foundedness of the Petition and an advisory opinion on the Ruling.
2. As part of its advisory opinion, the LOWI can also advise the Board on the necessity and severity of any measures. The LOWI is not authorised to advise on disciplinary measures.
3. The LOWI's advisory opinion will be published within six weeks of the notification as specified in Article 11, Subsection 8, or within six weeks of the hearing. This period may be extended once by a maximum of six weeks. The Parties will be notified accordingly.
4. The LOWI's advisory opinion will be issued to the Board, with a copy to the Petitioner and the Interested Party. If the LOWI has sought the advisory opinion of an expert as specified in Article 13, the expert will also receive a copy of the advisory opinion.

Article 16 – Publication of advisory opinion

1. If an advisory 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 a copy to the Complainant and Defendant. If the Board disregards the LOWI's advisory opinion, this will be explained in the final Ruling, with reasons being given.
2. The LOWI's advisory 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 three months after the issuing of the advisory opinion.

Other provisions

Article 17 – Complaints about the LOWI

1. Complaints about the LOWI should be submitted to the board of the Foundation 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 substance of an advisory opinion issued by the LOWI.

Article 18 – Contingency clause

In cases not provided for in the LOWI Regulations 2022, the Dutch General Administrative Law Act shall apply by analogy as much as possible.

Article 19 – Effective date

These LOWI Regulations enter into effect on 1 February 2022. The LOWI Regulations 2018 are revoked, but continue to apply to Petitions submitted to the LOWI before 1 February 2022.

Thus adopted by the Constituent Organisations of the LOWI on 21 December 2021 on the recommendation of the LOWI.