

Casus Wetenschappelijke Integriteit

2020

Schending van de Wetenschappelijke Integriteit bij de totstandkoming van een subsidieaanvraag / Proefschrift en auteursvolgorde

Universiteit Maastricht

POCESVERLOOP

On 5 July 2019 [klager] filed a complaint with the CWI. The complaint is directed against [beklaagde]. The accused has been the PhD supervisor of [klager]. [Klager] has sent the CWI additions to his complaint on 2 and 14 September 2019.

The CWI took note of the complaint and the appendices submitted by [klager]. The CWI declared the complaint admissible on 12 September 2019, for the part of the complaint that relates to scientific integrity. The other part of the complaint relates to a labour dispute between [klager] and [beklaagde]. The 14 September 2019 addition has also been declared admissible by the CWI. [Beklaagde] was given the opportunity to submit a written defence. After this, both parties were given the opportunity to present their rebuttals, and were invited to a hearing.

The CWI's task is to investigate the complaint and to make recommendations to the Executive Board of [University], which will issue an initial verdict on the complaint. [Klager] and [beklaagde] may seek the advice of the Netherlands Board on Research Integrity (LOWI) on this initial verdict within six weeks of its announcement.

The CWI investigated the complaint on the basis of the [Universiteit] Regulations on Academic Integrity and the Netherlands Code of Conduct for Research Integrity.

Before investigating this case, the CWI extensively considered the question of the independence of the CWI, given the circumstance that [lid] has been (until 13 years ago) the scientific director of [departement]. [Departement] is the institute where [klager] and [beklaagde] are employed. Given that [lid] retired as scientific director of [departement] quite some time ago, he has had no personal or working relationship with [klager] or [beklaagde].

In addition, the substance of the complaint does not relate to his field of research. The CWI therefore decided that the independence of [lid] and thus the CWI as a whole are guaranteed. Furthermore, to prevent any form of bias, the CWI has used the services of an external, independent expert. This expert has no personal or working relationship with the members of the CWI.

GRONDEN VOOR DE KLACHT

The complaint concerns an allegation of alterations in figure legends in a grant application submitted to the [organisatie] (case 1), a grant application to [organisatie] (case 2), in a dissertation (case 3), and in a published article (case 4). With regard to the dissertation, [klager] also asked questions about authorship in the relevant chapter in the dissertation.

Case 1:

[Klager] states: "during preparation of a grant application submitted on 17-10-2017, proposal number [nummer], by [organisatie] to the [organisatie], I was asked to provide my own data (Fig2) and noticed a first

instance of changed Figure labels (Fig1). I addressed these by asking [organisatie] to respect the original labeling of my blots (Fig3). He returned the labeling to the Original, although only in the Figure legend (Fig4)".

Case 2:

[Klager] states: "After submission of Grant application to [organisatie] on 27.09.18, Dossier nummer: [nummer], together with [Universiteit] co-applicant researchers (..) and (..), I noticed another case of altered Figure legends (Fig6). The data presented in Fig.2D of the grant, derived from an experiment of mine, together with the supervised Bachelor student (Fig5). The technique mentioned in the grant is more laborious and that would add weight to the application, but it is also impossible that the bands separate as such with the technique [organisatie] put in the grant. In addition, [organisatie] admitted it (Fig 7), after I had informed her (Fig 8) via email. Of interest, (N.N) did not notice this change, although cosupervised together this Thesis".

Case 3:

[Klager] states: "This case is the most recent and severe, in my opinion, for multiple reasons. I discovered this inconsistency on 11-06-2019 and since the manuscript relevant to it, is planned to be published anytime within 2020, I would appreciate it receives extra attention, as this finding makes (at least) me question the integrity of the current manuscript at large.

1) It regards 2 printed Figures in the Thesis Chapter 5, page 151 and page 162 of previous PhD student ([afkorting], award PhD on 22.05.19), [nummer], under a [organisatie]-funded [type]project [nummer] to [organisatie]. Thesis book is printed and given also to me, but embargoed for online full content view.

2) I noticed different labels for lanes 3, 4 and 7,8 than the Original. The person who labelled the lanes used another control [type], instead of the [stof] for pointing out the specificity of the [stof] probe used in lanes 1, 2 and 5, 6. I can attribute the labeling primarily to [organisatie] and/or (..), but cannot exclude any of the other authors beside me. Plus, the manuscript was given to me as a final .pdf file by [afkorting] and I was not involved at all stages in the writing or editing of it (although co-author), besides sample preparation".

In an addition to the complaint, [klager] also indicates that in figure 4 of this same chapter the figure legend contains unsupported claims, because protein samples are not checked for equal protein loading.

[Klager] has questioned the accuracy of the authorship of the dissertation of PhD-candidate [afkorting]. In his opinion the accused is primarily responsible for the text of the article and not the PhDcandidate.

[Klager] indicates that he has pointed the omissions in the chapter on several occasions, and nothing has been done with his remarks for a long time. During the hearing, [klager] also indicated that one of the co-authors of the chapter is not aware of the existence of the chapter.

Case 4:

[Klager] states: "Hereby, I extend my complaint to published findings of this paper: [publicatie], with [beklaagde] as corresponding author.

Specifically, Figure 5, WT, LPS 24hr, as circled in red (on the right image), seems to be spliced and stitched, without it being disclosed. There are no raw data nor full-length blots (images) in the article Supplements. It is repeatedly mentioned in the text that the images are representative. The same Senior Technician, (..), as in case #3 in my report, is primarily responsible for performing this method and assembling this kind of data".

VERWEER BEKLAAGDE

In his written defence, [beklaagde] states that:

Case 1:

"I involved [klager] the summer of 2017 in the preparations of a grant application.

I specifically asked for help with the figure legends, as the exact conditions of experiments were not always clear to me from the files I was provided with by [klager]. [Klager] assisted me and this resulted in the submission of a correct figure (Figure A). I also accepted his feedback on including his name in the grant application, and did so. Therefore, I do not see a reason for this accusation of intentional figure legend alteration and do not consider this improper manipulation of data”.

Case 2:

“The mentioned figure was submitted in a grant application with colleagues. [Klager] correctly noticed that this figure contained data resulting from a PCR amplification and agarose gel, and not from northern blot. This was an unintended mistake by me, which did not bring me any benefit. The conclusions drawn from the figure remain the same. Therefore, I do not consider this improper manipulation of data. The proposal was not granted and hence there is no possibility to correct this mistake retrospectively”.

Case 3:

“At the time (2015) I spoke extensively about the order of loading the samples with the relevant analyst, when interpreting the data from mass spectrometry. He indicated that by the actions he had to perform in the lab when working up the samples, he changed the order of loading compared to his original plan. He made a note of this after the experiment in his lab journal with the photo of the gel. He mistakenly copied the labeling of the lanes in a digital document, the file of 4-3-2015.

In the field, the lab journal takes precedence over all other documents; what is in the lab journal is final. Therefore, I have no doubt that the order of the labels in the figure of the thesis is correct; it is based on the lab journal and not on other documents. It is important to note that the digital document dated 4-3-2015 (which still contained the erroneous labeling sequence) was never part of a publication, but only served for internal digital archiving of the blot. There is no wrong labeling sequence in the thesis. The document provided by [klager] with the wrong order is an internal unpublished document. The lab journal, in which the order is correct, always takes precedence in my field.”

“The 2 figures identified by [klager] are similar and share the same legend. [Klager] correctly noticed the error in the respective legends, which regards a mislabeling of the used control. Both [type] (now indicated as control) and [stof] (actually used) were used as controls in this and previous experiments. By unintentional mistake, the blot in the thesis was indicated to have [type] as used control, but in this case it was [stof]. [Stof] is a better control than [type], and hence the mistake did not bring any benefit. I do not consider this improper manipulation of data.

The respective thesis chapter is under embargo and not published. The mistake has been corrected”.

Case 4:

“I am last and corresponding author and thus fully responsible for the entire content of this manuscript ([publicatie]). [Klager] indicates that the western blot images in Figure 5 are spliced and stitched. This is correct. Splicing and stitching gives the impression that the dots are next to each other on the same blot, which may be misleading. As indicated in the figure legend, it concerns a representative image. The data in the accompanying graph in panel B are based on quantifications of the original blot with n=3 samples per group of 4 experimental groups. The data from the blot in panel A were rearranged by splicing and stitching to show a representative n=2 for each group and illustrate the data in the bar graph in panel B. If needed the raw data can be provided. I am confident that the entire figure is a correct reflection of the original data. I do not consider this improper manipulation of data”.

[Beklaagde] has also sent the CWI a copy of a message to the Circulation editorial board in which he reports an issue with the raw data: “In summary, the blots for P-Stat3, total Stat3 and GAPDH in Figure 5A of the published manuscript do not match the quantification graph for P-Stat3 / Stat3 in Figure 5B. The blots in the published Figure 5A result from the same samples but were generated with a different antibody. The blots

in images 4-6 are the origin of the P-Stat3 / Stat3 graph in Figure 5B ". He sent this message to the editors on 16 December, 2019.

PROCEDURE EN HOORZITTINGEN CWI

After taking note of [klager], the CWI, on 12 September 2019, decided that it is partly admissible, where the part met the admissibility requirements listed in article 4 of the '[Universiteit] Regulations on Academic Integrity' and concerns a possible violation of academic integrity.

These possible violations are listed in the Appendix to the [Universiteit] Complaints Procedure for Academic Integrity, and the Netherlands Code of Conduct for Research Integrity. The CWI communicated this to both the Executive Board and the Dean of [faculteit].

The CWI gave the accused the opportunity to file a written defence against the complaint. Both [klager] and [beklaagde] were given the opportunity to respond to each other's responses.

Subsequently, the CWI invited [klager] and [beklaagde] to a separate hearing. [Klager] objected to this, and requested a joint hearing.

Contrary to [klager]'s opinion, the hearing of parties is not intended to give them the opportunity to have a debate, but to obtain the information that the CWI needs to be able to advise the Executive Board carefully. "On the basis of the Parliamentary History for article 9:10, second paragraph, in conjunction with article 9:15, third paragraph, of the Algemene Wet Bestuursrecht, it is left to the CWI to assess whether it is desirable to hear [klager] and [beklaagde] in each other's presence" (LOWI advice 2018-20). Because the complaint was submitted in a context in which the labour relations between both parties were seriously strained, the CWI decided that a separate hearing would be more appropriate to obtain the information the CWI needs, and would thus serve the interests of both parties.

[Klager] was assisted by a lawyer during the hearing. During the hearing, both parties were given the opportunity to explain their complaint or defence in more detail, and answered questions raised by the CWI. The minutes of the hearings were sent to both parties with a request to check the minutes and to propose corrections in case of any factual inaccuracies. The principle of the right to be heard requires that the parties are informed of the proceedings of each other's hearing. The CWI therefore sent the summaries of the hearings to [klager] and [beklaagde].

During the procedure for the assessment of the substance of the complaint, the CWI was advised by an expert who is not affiliated with [Universiteit] and has not had a personal or working relationship with [klager], [beklaagde], or with members of the CWI. The expert advised the CWI on the different parts of the complaint, assessed the submitted documents, answered questions raised by the CWI and conducted an analysis of the data files.

At the request of the CWI, [beklaagde] submitted research data files to the CWI after the hearing.

One day before the completion date on which the CWI would offer its advice to the Executive Board and after the CWI had reached conclusions on the present complaint on the basis of the material available up to then) [beklaagde] sent the CWI a Supplementary statement of defense.

The CWI has decided not to include this statement of defense in the advice, but has informed the Executive Board about the existence of this document when offering its advice on 17 January, 2020. Based on this, the Executive Board has decided not to accept the advice and has requested the CWI to assess the additional defense and to include it in its definitive advice because of the principle that the Executive Board wishes to exercise due diligence in serious cases such as this. The CWI then submitted the additional defense to [klager] for a written response. Both parties have been invited to a hearing. [Klager]'s counsel has informed the CWI that he will not comment and that he will not be present at the hearing on 3 February 2020. During the hearing, on 3 February 2020, the CWI was presented with the original lab journal to which [beklaagde] refers in his defense. The additional defense and the hearing prompted the CWI to withdraw the advice of 17 January 2020 and to issue a final advice.

This advice is based on all information known to the CWI regarding the complaint lodged by [klager].

In assessing the complaint, the CWI drew on two examples of violations of academic integrity listed in the Appendix of the Complaints Procedure of [Universiteit] (1) and the Netherlands Code of Conduct for Research Integrity: “2. falsification: the falsification of data and/or the secret elimination of data obtained from Research. Any data that is unwelcome to the researcher may never be manipulated to fit expectations or theoretical outcomes. Data may be omitted only on demonstrably sound grounds”. (1) “21. Do not remove or change results without explicit and proper justification. Do not add fabricated data during the data analysis”. (2)

OVERWEGINGEN

With regard to case 1 of the complaint, the CWI considers the following:

The changes in the figure legend introduced by [beklaagde] in the draft version of the [naam] grant application indeed raises questions about why these changes were made without consulting [klager]. The corrections suggested by [klager] were made before submission of the application. Although the accused does not give a satisfying explanation for why the figure details were changed, the CWI does not consider this a violation of scientific integrity, because the submitted version contained the correct information. However, [beklaagde] should have been more careful in the process leading up to the submission of the grant application and it is due to [klager]’s attentiveness that the application with regard to its content has been submitted correctly.

The CWI is of the opinion that with regard to part 1 of the complaint, there is no formal breach of scientific integrity, since the corrections suggested by [klager] were processed before submission of the application. This method fits into a research culture in which there is room for discussion, assessment, and correction of each other’s work.

With regard to case 2 of the complaint, the Committee considers the following:

In the legend of one of the figures of the [organisatie] grant application, the wrong technique was mentioned to prepare some of the data. The CWI considers this to be a sloppy mistake, caused by insufficient checking of the details of the respective experiment. [Beklaagde] admitted this mistake when it was pointed out. On the basis of the information provided, the CWI cannot come to the conclusion that [beklaagde] had the intention to manipulate data, and to benefit himself.

The Netherlands Code of Conduct for Research Integrity categorizes non-compliance with one or more standards constituted as: ‘research misconduct’, ‘questionable research practice’ or, in the least serious situations, as a ‘minor shortcoming’.

With regard to case 2 of the complaint, given this categorization, the CWI is of the opinion that this can be formally considered as a minor shortcoming. The CWI is of the opinion that [beklaagde] has been careless but the potential effects of this carelessness are limited. The application was not granted and [beklaagde] had already been informed about his mistake by [klager] and would have corrected this mistake if the application had been granted.

With regard to case 3 of the complaint, the CWI considers the following:

A comparison of the labelling of the lanes in Figure 5A/Figure S1 in Chapter 5 of [afkorting]’s PhD thesis with that of the original data indicates that errors have been made in labelling of the lanes during reproduction of the data and that this led to a discrepancy between the lab notebook and the corresponding digital document. The consequences of this are that:

- erroneous data were ‘published’ in the hard copy of [afkorting]’s PhD thesis;
- proper corrections have been made in the electronic version of this thesis on the university’s website (under embargo);

- the subsequent experiments and scientific discussion of the data in this chapter are not severely affected, because they focus on the proteins identified in Band 1, which was present in a lane of the gel that was correctly labelled both in the original and in the corrected version of the figure.

With regard to Figure 4 of this chapter ([klager] indicates that the figure legend contains unsupported claims, [motivering]. Unfortunately, the assessment committee did not identify this flaw in this chapter. The CWI does not consider this a violation of scientific integrity, but an overinterpretation of the data.

With regard to case 3 of the complaint, the CWI is of the opinion that [klager] rightly points to several omissions in the creation of Chapter 5 of [afkorting]'s dissertation, for which [beklaagde] as corresponding author and supervisor, bears responsibility.

These omissions relate to questions about the correct assignment of authorships.

The Netherlands Code of Conduct for Research Integrity categorizes non-compliance with one or more standards constituted as: 'research misconduct', 'questionable research practice' or, in the least serious situations, as a 'minor shortcoming'.

With regard to authorship, the CWI cannot, based on the documents and the hearings, avoid the impression that [beklaagde] has made a substantial substantive contribution to this chapter, more than might be expected in the work of a PhD candidate. For that reason, together with his role as PhD-supervisor and corresponding author, the CWI considers [beklaagde] responsible for the content of this chapter. [Beklaagde] has indicated mitigating circumstances for this, such as the pressure to complete the dissertation in time. The CWI recognises the pressure put on completing PhD dissertations, which may compromise the quality of scientific work. The CWI understands the sense of responsibility of [beklaagde] towards his PhD student, but believes that in this case this has affected both the anticipated independent role of the PhD candidate as well as the role of the accused as PhD-supervisor.

In the opinion of the CWI, [klager] is also right to question the lack of opportunity the co-authors have been given to comment on the final draft version of the chapter, which is also intended to be published as an article in a peer-reviewed journal. The CWI is of the opinion that the process surrounding the writing of this chapter does not meet the relevant requirements, such as clarity about the contribution of the individual authors. The chapter should also have been forwarded to all authors for a final check, which might have prevented the chapter from having to be corrected at a later time.

[Klager] has also indicated that one of the co-authors of this chapter is not aware of the existence of this article and has never associated his name with it. [Beklaagde] has informed the CWI that [klager]'s assumption is correct. The relevant co-author was indeed unaware.

The reason for his 'co-authorship' is the use of a tool he has provided, and the work in the chapter is a continuation of research in collaboration with the group of the 'co-author'. The plan was to prepare the relevant chapter for publication in an international journal fairly soon after the PhD-defence, and that the co-author then would have been informed and asked for approval.

The CWI is of the opinion that the manner in which authorships were dealt with in this chapter of the dissertation can contribute to the devaluation of the value of dissertations. A dissertation is a scientific publication and should be viewed in this way, even though the content of the dissertation is 'work in progress' and the starting point for further research. The CWI is of the opinion that [beklaagde] neglected this fact. The CWI is of the opinion that the guidelines on authorship in scientific publications have not been followed properly. However, the implications of this negligence are limited, due to the fact that the chapter is still under embargo and has not been published in a peer reviewed journal yet. The CWI has the strong impression that the research culture surrounding the development of dissertations has failed in this case. [Beklaagde] can be partly blamed for this, but this might also point to a broader problem within [beklaagde]'s research environment.

In view of the above, the CWI is of the opinion that the state of affairs regarding the creation of this chapter and the assignment of authorships is a questionable research practice, for which the CWI holds [beklaagde] responsible as a PhD-supervisor and corresponding author.

In terms of content, the CWI is of the opinion that no data has been manipulated in Figure 5a / S1 in Chapter 5 in the dissertation of SHB.

[Beklaagde] has sufficiently demonstrated to the CWI that [klager] based his complaint on an internal digital document which had not been updated correctly. This omission can be attributed to the analyst concerned, but not to the accused. The figure in the dissertation is correct, as it is based on the lab journal, and not on the digital document. The mistakes regarding the mislabeling of the used control have been corrected in the digital version of the dissertation. The CWI therefore concludes that there is no question of falsification of data; scientific integrity has not been breached on this part of the complaint.

In this context, the CWI wishes to underline that its opinion on chapter 5 of the dissertation, does not imply that the CWI doubts whether the dissertation meets the standards used by [Universiteit] for obtaining the doctoral degree; the CWI has no reason to believe that the PhD-candidate did not act in good faith.

With regard to case 4 of the complaint, the CWI considers the following:

During the search for the raw data used to compose Fig.5 of the 2013 Circulation paper, [beklaagde] noted that part of the data shown in Fig.5A does not correspond to the quantified data in Fig.5B and, therefore, does not adequately illustrate the related blot results. As a consequence, it is impossible for the CWI to judge the integrity of the published data, because they simply do not match. The CWI can only conclude that a rather careless mistake was made during the composition of this figure. In the meantime, [beklaagde] has taken the necessary actions to inform the journal in which this paper was published. In spite of the seemingly inaccurate way by which the figure was composed, the scientific consequences are not very serious, because it was not the blot, but the quantified data which was used for the interpretation, and the raw data provided indicated that there is no discrepancy between the raw and quantified data. During the comparison of the published data with the raw data, the CWI noticed that the positioning of the molecular weight markers in Fig.5A of the published paper is rather misleading. The figure suggests that [stof] is co-migrating with the [soort] marker. The original blot indicates that [stof] is migrating at a position corresponding to a [stof] of approximately [soort]. This emphasizes the sloppiness by which this figure was made.

With regard to case 4 of the complaint, the CWI is of the opinion that this can be formally considered as a minor shortcoming. [Beklaagde] made a careless mistake, with little scientific impact.

The CWI cannot conclude that this has been a deliberate act by the accused to manipulate data to benefit himself.

ADVIES

The Scientific Integrity Committee of [Universiteit] advises the Executive Board to declare the complaint admissible for the part that relates to scientific integrity, and partly founded in the sense that the CWI considers that there is no question of a violation of scientific integrity, but that questionable research practice and minor shortcomings can be attributed to [beklaagde].

The CWI advises to consider case 1 not as a violation of scientific integrity.

The CWI advises to consider case 2 formally as a minor shortcoming, but not as a violation of scientific integrity.

The CWI advises to consider case 3 formally not as a violation of scientific integrity, but as a 'questionable research practice' regarding the creation of this dissertation and the assignment of authorships, and not founded regarding the content of chapter 5 (figure 5A/Figure S1) in the dissertation of [afkorting]..

With regard to Chapter 5 in [afkorting]'s dissertation, the CWI advises :

- to see to it that the corrected article will be submitted for approval by all co-authors and to request them to confirm their co-authorship in writing;
- to see to it that the chapter will only be submitted for publication in a journal after the approval of the co-authors has been obtained.

The CWI advises to consider case 4 formally as a minor shortcoming, but not as a violation of scientific integrity.

In a general sense, the CWI wishes to advise the Executive Board to initiate a discussion with the Dean of the [faculteit] in which the prevailing (PhD) research culture will be evaluated from the perspective of the role of the supervisor, the role of the assessment committee, the time pressure exerted on the finalisation of dissertations, and the involvement of multiple authors in one or more chapters of the dissertation.

The CWI finally wishes to express its dissatisfaction with the way in which both parties have handled this case. This concerns both the violation of the confidentiality of the procedure by [klager], and the failure by [beklaagde] to take the complaint seriously enough. As a result of the latter, the CWI was only able to access all relevant information at a late date.

AANVANKELIJK OORDEEL

Het College van Bestuur neemt op 17 februari 2020 kennis van het advies van de CWI.

Het College van Bestuur besluit het advies van de CWI over te nemen tot aanvankelijk oordeel en verklaart de klacht van [klager] jegens [beklaagde] ontvankelijk en gedeeltelijk gegrond in die zin dat er geen sprake is van schending van de wetenschappelijke integriteit van de zijde van [beklaagde], maar wel van bedenkelijk gedrag en lichte tekortkomingen.

De CWI heeft in haar advies de volgende aanbeveling gedaan:

“In a general sense, the CWI wishes to advise the Executive Board to initiate a discussion with the Dean of the [faculteit] in which the prevailing (PhD) research culture will be evaluated from the perspective of the role of the supervisor, the role of the assessment committee, the time pressure exerted on the finalisation of dissertations, and the involvement of multiple authors in one or more chapters of the dissertation”.

Het College van Bestuur besluit de decaan [faculteit] te verzoeken om opvolging te geven aan de aanbeveling van de CWI en te onderzoeken of de gang van zaken rondom het proefschrift een incident betreft of er sprake is van een meer structureel probleem. De decaan [faculteit] wordt verzocht om de onderzoeksopzet en planning aan het College van Bestuur voor te leggen.

LOWI-ADVIES

Op 25 november 2020 heeft het LOWI volgende advies uitgebracht:

I. verklaart het verzoek gedeeltelijk gegrond en voor het overige ongegrond;

II. adviseert het College van Bestuur:

- a. dit advies aan het definitieve oordeel ten grondslag te leggen, zodat aan de juiste gedragscode wordt getoetst;
- b. de handelingen van [beklaagde] met betrekking tot auteurschap te kwalificeren als een schending van de wetenschappelijke integriteit;
- c. de passage in het CWI-advies over de promotiewaardigheid van het proefschrift buiten beschouwing te laten en niet aan het definitieve oordeel ten grondslag te leggen;
- d. het aanvankelijk oordeel voor het overige ongewijzigd vast te stellen als definitief oordeel.

DEFINITIEF OORDEEL / BESLUIT

Het College van Bestuur heeft kennisgenomen van het advies van het LOWI en op 17 december 2020 besloten op onderdeel b. af te wijken van het advies van het LOWI.

Het College van Bestuur overweegt hierbij het volgende.

In 2018 is de Nederlandse Gedragscode Wetenschapsbeoefening (2004, herzien in 2014) grondig herzien waarin een specifiekere graduele onderscheid tussen schending van wetenschappelijke integriteit, 'bedenklijk gedrag' (questionable research practice) en onzorgvuldigheid is opgenomen. Tevens geeft de nieuwe code uitgebreide wegingscriteria die in staat stellen contextuele factoren mee te nemen in de uiteindelijke bepaling van het type schending.

Door het ontbreken van deze cruciale wegingscriteria leidt toetsing aan de Nederlandse Gedragscode Wetenschapsbeoefening uit 2004 naar het oordeel van het College van Bestuur en in dit specifieke geval tot een disproportioneel nadeel voor [beklaagde]. Indien toetsing aan de nieuwe code tot een andere uitkomst zou leiden en hiermee sprake is van een negatief extern effect kan overwogen worden dat het overgangsrecht niet enkel een juridische aangelegenheid is en dat in casu het overgangsrecht onbedoeld tot gevolg heeft dat betrokkene die door de nieuwe regeling in een gunstigere positie zou worden gebracht alsnog in een disproportionele nadelige positie komt.

Op basis van de Nederlandse Gedragscode Wetenschappelijke Integriteit uit 2018 en de daarin genoemde wegingscriteria komt het College van Bestuur net als de CWI tot het oordeel dat de kwalificatie 'bedenklijk gedrag' (questionable research practice) met betrekking tot dit klachtonderdeel juist is en niet de kwalificatie schending van de wetenschappelijke integriteit.

Het College van Bestuur betreft hierbij niet alleen dat [beklaagde] een jonge onderzoeker is, die niet vaker tekortgeschoten is (wegingscriteria i en j), maar zijn tevens van mening dat het College van Bestuur als instelling bij de uitvoering van de zorgplicht (wegingscriterium k) tekortgeschoten zijn. Binnen het instituut van [beklaagde] en wellicht zelfs gerelateerd aan de opvattingen binnen de discipline, was mogelijk sprake van een onderzoekscultuur waarbinnen de gedraging met betrekking tot het auteurschap heeft kunnen plaatsvinden. Het College van Bestuur rekent dit zichzelf als organisatie aan en heeft inmiddels een onderzoek ingesteld naar de onderzoekscultuur binnen het instituut van [beklaagde]. Dit onderzoek moet leiden tot concrete verbeteracties en daarmee herhaling in de toekomst voorkomen.

Tevens neemt het College van Bestuur in overweging dat in deze casus de geheimhoudingsplicht op meerdere momenten niet in acht is genomen, hetgeen tot schade aan de zijde van [beklaagde] geleid heeft. [Klager] heeft zijn klacht publiek gemaakt bij de pers, subsidiegevers en vakgenoten, terwijl belangrijke onderdelen van de klacht uiteindelijk niet gegrond verklaard zijn. Dit heeft [beklaagde] substantiële schade berokkend.

Het definitieve oordeel van het College van Bestuur luidt derhalve als volgt.

Het College van Bestuur verklaart de klacht van [klager] jegens [beklaagde] ontvankelijk en gedeeltelijk gegrond in die zin dat alleen de handelingen van [beklaagde] met betrekking tot auteurschap te kwalificeren zijn als 'bedenklijk gedrag' in de zin van de Nederlandse Gedragscode Wetenschappelijke Integriteit (2018), maar niet als schending van de wetenschappelijke integriteit.

De overige onderdelen van de klacht, die betrekking hebben op subsidieaanvragen en een artikel, leiden tot het oordeel dat er geen sprake is van schending van de wetenschappelijke integriteit en worden derhalve niet gegrond verklaard.

Het College van Bestuur besluit de passage in het advies van de CWI over de promotiewaardigheid van het proefschrift buiten beschouwing te laten.

Het College van Bestuur zal vanwege de kwalificatie 'bedenklijk gedrag' een afschrift van dit besluit toevoegen aan [beklaagde]'s personeelsdossier. Verder zal de rector met [beklaagde] en de onderzoeksschool de uitkomsten van het onderzoek nader bespreken.