



**The University of Bayreuth's by-laws
for safeguarding the standards of good scientific practice and
handling academic misconduct**

dated 10 May 2012

Article 13 para 1 sentence 2 in conjunction with Article 6 para 1 sentence 3 clause 2 of the Bavarian Higher Education Act (*BayHSchG*) forms the framework for the following by-laws issued by the University of Bayreuth.

Part I: Purpose and scope of the regulations

- § 1 Purpose
- § 2 Scope

Part II:

Rules of good scientific practice and academic misconduct

- § 3 Rules of good scientific practice
- § 4 Academic misconduct

Part III:

Dealing with cases of alleged academic misconduct

- § 5 Internal bodies for academic self-regulation at the University
- § 6 Ombudsman/ Ombudswoman
- § 7 Committee for Academic Self-Regulation
- § 8 General provisions
- § 9 The Ombudsperson's investigation of the allegation and the commission's preliminary proceedings
- 10 Formal investigation by the committee

Part IV: Final clause

- § 11 Effective date, expiration, transitional provisions

Annex 1 (partial overview of conduct that is considered to constitute academic misconduct)

Annex 2 (partial overview of possible consequences of academic misconduct)

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Part I: Purpose and scope of the regulations

§ 1 Purpose

¹Researchers at the University of Bayreuth are obligated to uphold academic integrity (Article 6 para 1 sentence 3 of the Bavarian Higher Education Act). ²These by-laws are designed to strengthen trust in our researchers' academic integrity and to secure the University of Bayreuth's reputation as a location dedicated to fostering and developing scholarship (Article 2 para 1 sentence 1 of the Bavarian Higher Education Act). ³For this purpose, the by-laws provide standards of good scientific practice and make provisions for their implementation.

§ 2 Scope

- (1) ¹The by-laws apply to all active researchers at the University of Bayreuth, hence for all members of the University of Bayreuth who are engaged in research (Article 17 para 2 sentence 1 numbers 1 and 2 of the Bavarian Higher Education Act). ²The by-laws also apply to persons who are not members of the University of Bayreuth, but who are pursuing a doctoral degree under the supervision of a professor at the University of Bayreuth.

- (2) ¹The by-laws also apply to former members of the University if they are accused of having violated the standards of good scientific conduct during their research at the University of Bayreuth or having endangered trust in the academic integrity of researchers at the University of Bayreuth, and if the University of Bayreuth's academic reputation (§ 1 sentence 2) could be damaged as a result. ²The by-laws also apply to persons who were not members of the University, but who completed their doctoral degrees under the supervision of a professor at the University of Bayreuth, if they are accused of having violated the standards of good scientific conduct while writing their dissertations at the University or having endangered trust in the academic integrity of researchers at the University of Bayreuth, and if the University of Bayreuth's academic reputation (§ 1 sentence 2) could be damaged as a result of the allegation.

- (3) ¹If the person accused of academic misconduct was a member of a different university or affiliated with a different scientific institution at the time of the alleged misconduct, the University of Bayreuth may request that the other institution investigate the allegation if the accused is found to have endangered trust in the academic integrity of researchers at the University of Bayreuth, and if the University of Bayreuth's academic reputation (§ 1 sentence 2) could be damaged as a result of the allegation. ²Sentence 1 does not affect the University of Bayreuth's right to investigate the allegations of academic misconduct according to the present regulations if the University of Bayreuth's academic reputation (§ 1 sentence 2) could be damaged as a result of the allegation.
- (4) The annexes (Annex 1 and Annex 2) forms an integral part of the present by-laws.

Part II:

Rules of good scientific practice and academic misconduct

§ 3 Rules of good scientific practice

- (1) ¹All persons actively engaged in research at the University of Bayreuth are obligated to uphold academic integrity (Article 6 para 1 sentence 3 of the Bavarian Higher Education Act). ²They are obligated to observe accepted rules and standards of good scientific practice in their scholarly work, to independently clear up any doubts regarding such standards, to avoid academic misconduct, and to correct any cases of academic misconduct they discover. ³They are responsible for any consequences of academic misconduct that can be attributed to them.
- (2) ¹The faculties shall ensure that the standards of good academic practice are permanently reflected in all programmes of study and in the supervision of doctoral researchers; this includes pointing out the dangers of academic misconduct. ²Aside from the responsibilities of the faculty, supervisors shall offer their doctoral students regular discussions which shall also serve to clarify any doubts pertaining to the standards of good academic practice.

- (3) ¹Scholarly research seeks to attain scientific knowledge, to lay scientific foundations, and to advance teaching and learning (Article 6 para 1 sentence 1 of the Bavarian Higher Education Act); it is characterized by independent and methodically regulated work towards possible scientific advances. ²This applies, in particular, to scientific work carried out during one's doctoral research. ³Doctoral supervision does not release doctoral students from their obligation to familiarize themselves with the relevant standards of good scientific practice and to observe these standards at all times. ⁴As long as there are no indications that the standards of good scientific practice have been violated, the supervisor shall trust in the proper conduct of the doctoral researcher (trust principle). ⁵Sentences 3 and 4 apply *mutatis mutandis* to all persons who are not doctoral researchers but who carry out research at one of the University's research centres (e.g. collaborative research centres, research training groups, research groups, research institutes, chairs).
- (4) ¹In particular, the standards of good scientific practice include
1. handling ideas, texts, data, etc. taken from others in a transparent and comprehensible way, namely by applying clear quotations rules which avoid confusion;
 2. collecting primary data in a way that is comprehensible to others - especially by way of recording and documenting in full;
 3. maintaining a strict policy of honesty with regard to the research contributions of others - especially when publishing research results, by naming any person whose scientific or other substantial contributions are used, acknowledging co-authors, and if possible, identifying their contributions;
 4. acknowledging the joint responsibility of co-authors for publications to the exclusion of so-called "honorary authorship";
 5. evaluating and grading scholarly works using transparent standards or criteria which, in particular, ensure that originality and quality take priority over quantity;
 6. transparency with regard to the funding of research projects;
 7. disclosing any conflicts of interest that may arise in connection with a research project.

²The specific features of the individual academic disciplines, especially the subject areas in which experimental work is done, and the requirements of multi-, inter-, and cross-disciplinary research are also to be observed.

- (5) Primary data as the basis for publications shall be securely stored for ten years in a durable form in the institution of their origin to the extent that this is required for the purposes of verifiability.
- (6) Notwithstanding the responsibility of the faculty (para 2 sentence 1), the directors of the various academic units and working groups (para 3 sentence 5) must ensure via appropriate organizational measures that managerial and supervisory duties with such units and working groups - including clarification of the relevant standards of good scientific practice - are clearly defined and fulfilled by the relevant person.

§ 4 Academic misconduct

- (1) ¹A case of academic misconduct is present if one is guilty of violating the standards of good scientific practice (whether wilfully or due to gross negligence). ²In particular, a case of academic misconduct is present if one is guilty of misrepresenting data that was collected (whether wilfully or due to gross negligence), infringing on the intellectual property of others, or impairing their research activities in any way. ³The types of conduct described in Annex 1 are to be considered academic misconduct.
- (2) ¹A person who shares responsibility with someone else in violating the standards of good scientific practice thereby violates the standards himself/herself. Examples of joint responsibility are active involvement in someone else's misconduct, joint knowledge of misrepresentation carried out by someone else, co-authorship of publications that contain misrepresentations or other violations of the standards of good scientific practice, and gross negligence in supervision, especially with regard to scientific divisions and research groups (§ 3 para 3 sentence 5). Gross negligence in supervision is present if there is an obvious violation of the standards of good scientific practice with regard to independent research such that the supervisor should have noticed this in consideration of the trust principle (§ 3 para 3 sentences 4 and 5).

Part III:

Dealing with cases of alleged academic misconduct

§ 5 Internal bodies for academic self-regulation at the University

- (1) ¹The procedure for clearing up cases of alleged academic misconduct consists of several steps and is carried out by the ombudsperson (§ 6) in the framework of an investigation into the allegations (§ 6 para 2 sentence 3 in conjunction with § 9 para 1 sentence 1), by the Committee for Academic Self-Regulation (§ 7) in the framework of preliminary proceedings (§ 9), and – if applicable – in a formal investigation (§ 10).
- (2) ¹The ombudsperson and committee are internal university bodies for self-regulation. ²They prepare the decisions of the relevant bodies at the University and advise the University Governing Board with respect to safeguarding good scientific practice. ³When attending to their duties, the ombudsperson and committee members act independently and shall not be bound by any instructions. ⁴They shall not incur any disadvantages as a result of their activities following the end of their term.
- (3) ¹The procedure outlined in these by-laws does not replace other official procedures at the University. ²The ombudsperson and committee do not have the function of a prosecutor or court of law; in particular, they are not responsible for making binding decisions concerning copyright issues.

§ 6 Ombudsperson (Ombudsman/ Ombudswoman)

- (1) The Senate shall summon one or more members of the teaching staff who are experienced researchers to serve (for a period of three years) as a point of contact for persons who wish to report allegations of academic misconduct; the term shall begin on the day he or she is summoned by the Senate. ¹Re-appointment is permissible. ³The teaching staff representatives in the Senate (Article 25 para 1 sentence 1 number 1

of the Bavarian Higher Education Act) shall nominate one or more candidates after having consulted the research associates' representative in the Senate (§ 5 para 1 sentence 1 number 2 of the Constitution of the University of Bayreuth) and the Women's Representative at the University. ⁴Deans and members of the University Governing Board cannot be appointed as ombudsperson; one's role as ombudsperson terminates upon commencing a term as dean or as a member of the University Governing Board. ⁵The regulations regarding exclusion on the basis of personal involvement and apprehension of bias (Articles 20 and 21 of the Bavarian Administrative Procedures Act) also apply to the ombudsperson. ⁶The ombudsperson shall have one or more substitutes; sentences 1 to 5 apply *mutatis mutandis*. ⁷If there is an important reason for doing so, an ombudsperson may be required to step down if at least two-thirds of the Senate and all representatives of the teaching staff on the committee vote to dismiss the ombudsperson after having given him or her a chance to speak. ⁸If a member of the teaching staff retires, he or she may continue to serve as ombudsperson until the end of his or her term. ⁹An ombudsperson may resign at any time by submitting a written statement to the Senate. ¹⁰Sentences 7 to 9 also apply to the ombudsperson's substitutes.

- (2) ¹The ombudsperson shall advise those who inform him or her of alleged cases of academic misconduct. ²The ombudsperson shall, on his own initiative, investigate cases which come to his attention. ³Such investigations shall be conducted on the basis of plausibility, meaning, and concreteness, with a view to dismissing the allegations. ⁴He or she shall request that action be taken by the Committee for Academic Self-Regulation (§ 9 para 1 sentence 1).
- (3) Every member of the university (Article 17 of the Bavarian Higher Education Act) and every doctoral researcher is entitled to speak with the ombudsperson in person without considerable delay.

§ 7 Committee for Academic Self-Regulation

- (1) ¹The Senate shall appoint a committee to investigate allegations of academic misconduct; this committee is known as the Committee for Academic Self-Regulation. In the framework of an investigation

of alleged academic misconduct, the committee can make recommendations to the University Governing Board concerning safeguarding the standards of good scientific practice, even if such recommendations go beyond the allegations in question.

- (2) ¹The committee shall be made up of five members of the University teaching staff, of whom at least three are to be full professors and of whom one shall be qualified to hold the position of judge; of the teaching staff on the committee, at least one member shall be female. ²In forming the committee, care shall be taken to represent as many scientific areas at the University of Bayreuth as possible. ³Members of the committee shall serve a term of three years from the the time of taking office; reappointment is permissible. ⁴If a member of the teaching staff retires, he or she may remain on the committee until the end of his or her term. ⁵Members may announce their resignation to the chair of the committee at any time; the chair shall in turn announce the resignation to the Senate. The Senate is to be informed as soon as possible of vacancies on the committee; it shall seek to fill the any vacancy as quickly as possible. ⁷§ 6 para 1 sentence 5 also applies to members of the committee. ⁸The ombudsperson(s) are to be included in the committee in an advisory capacity. ⁹A research associate shall also be included in the committee in an advisory capacity.
- (3) If there is a vacancy on the committee, the teaching staff representatives in the Senate (Article 25 para 1 sentence 1 number 1 Bavarian Higher Education Act) - in consultation with the serving members of the committee, the University Governing Board, and the Women's Representative of the University - shall each recommend one member of the teaching staff with considerable research experience to fill the vacancy; the two representatives of the research associates (§ 5 para 1 sentence 1 number 2 of the University of Bayreuth's Constitution) - in consultation with the serving members of the committee, the University Governing Board, and the Women's Representative of the University - shall each recommend one research associate with considerable research experience to fill any vacancy. If there is an important reason for doing so, any member of the committee may be required to step down if at least two-thirds of the Senate and all representatives of the teaching staff on the committee vote to dismiss a given member after having given him or her a chance to speak;

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this also applies when dismissing a research associate.

- (4) ¹The committee shall elect a chair who is qualified to serve as judge from among its members. ²He or she shall assume the day-to-day management and make decisions or enact measures regarding matters that cannot be postponed on behalf of the committee, which is then to be informed of such actions without delay. ³The committee may overturn decisions that have been made or order the cancellation of measures that were enacted; the rights of third parties shall remain unaffected.

§ 8 General provisions

- (1) ¹The ombudsperson and committee shall, by appropriate means, point out to the person accused of academic misconduct that his or her cooperation in the entire process is voluntary and that he or she may cease cooperation at any time without stating his or her reasons for doing so. ²If the accused refuses to cooperate, the ombudsperson and committee shall still be entitled to investigate and assess the case in their respective capacities; this also holds if the accused initially agrees to cooperate and then ceases cooperation at a later time.
- (2) ¹In order to protect the right to privacy of all persons accused of academic misconduct or involved in the investigation, the ombudsperson and committee are to maintain strict confidentiality. ²When collecting, processing, and utilizing personal data, they shall see to it that the person's right to privacy is not compromised any more than necessary in order to clarify the allegations of academic misconduct and safeguard good scientific practice; The provisions of Bavaria's Data Protection Act also apply to the extent that the present by-laws do not contain provisions to the contrary. ³The chair of the committee may notify the person who reported an allegation of academic misconduct to inform him or her that the case was forwarded to the committee and what the committee's conclusion was. ⁴The ombudsperson and committee may contact the German Research Foundation

at any time during the proceedings and may also report the outcome of the proceedings to them. ⁵The records of the ombudsperson and committee are to be stored for thirty years after the conclusion of the proceedings; further details are to be determined by the University Governing Board.

- (3) ¹The provisions in the University of Bayreuth's Constitution concerning how business is to be conducted by the governing bodies shall also apply to the committee to the extent that the present by-laws do not contain provisions to the contrary. ²If the case is urgent, the accused can be summoned in person or by telephone, and the notice period may be shortened to accommodate the urgency. ³The committee constitutes a quorum if - after all members were duly invited - the majority of the members eligible to vote are present; proxy voting, to be carried out in writing, shall be taken into account when taking attendance and determining the voting power of members. ⁴The committee's decisions are made by a simple majority vote; if possible, decisions should be unanimous. ⁵Minutes shall be taken for the meetings of the committee to record the outcome of the meeting and any important steps in the proceedings. ⁶The committee shall not generally convene in public session. ⁷During committee meetings, discussion of certain points on the agenda may be open to the public as long as this does not infringe on the rights of third parties or other persons; if a scholar accused of academic misconduct is to be heard (§ 10 para 1 sentence 2), the session shall only be open to the public if the scholar provides his or her consent.
- (4) ¹The ombudsperson and committee shall attend to their *ex officio* duties at the stage of the procedure for which they are responsible. ²The committee may delegate fact-finding activities, either in part or in full, to one or more members of the the committee; the committee members charged with this task are to report to the committee, which shall remain responsible for the overall investigation and assessment. ³The ombudsperson and committee may take any steps necessary to clarify the facts of the case, especially the collecting of information and statements. ⁴They may, at any stage in the investigation, consult experts at the University or external experts in the field of the scientific issues under consideration. ⁵In particular, the committee may, in the case of certain allegations, decide to invite experts in the field of the scientific issues under consideration or with an understanding of the fields of science and higher education law

to support the committee in an advisory function; § 6 para 1 sentence 5 applies *mutatis mutandis*.

- (5) Upon request, the faculties shall support the ombudsperson and committee in determining the relevant subject-specific standards of good scientific practice; the provisions in § 3 para 4 sentence 2 are to be observed.

§ 9 The Ombudsman's investigation of the allegation and the commission's preliminary proceedings

- (1) ¹If there is evidence to support the allegation of academic misconduct, the ombudsperson shall call the committee to action by submitting a written request. ²The committee shall initiate a preliminary investigation, which may be followed by a formal investigation (also conducted by the committee).
- (2) ¹The committee shall immediately inform the person accused of the allegation and give him or her the opportunity to provide a statement. ²Such a statement must generally be submitted within two weeks; this deadline can be extended. ³During this phase, the name of the informant shall not be revealed to the accused without his or her permission.
- (3) After the deadline, or once the statement of the accused has been received, the committee shall decide (if possible within two weeks) whether the preliminary investigation should be concluded due to insufficient evidence or because the alleged case of academic misconduct was clarified completely, or whether a formal investigation should follow (in any case, the accused should be informed of the reasons).

10 Formal investigation by the committee

- (1) ¹A scholar who is accused of academic misconduct shall be given the opportunity to provide another statement (in an appropriate way) once the formal investigation has begun; the name of the informant shall generally be revealed. ²Upon request, scholars who are accused of academic misconduct shall be heard.

³He or she may choose someone to accompany him or her to the proceedings; this holds for anyone who is heard. ⁴The committee may bar persons who are suspected of being involved in the alleged case of academic misconduct from accompanying the accused.

- (2) ¹If the committee finds a case of academic misconduct to be unfounded, the investigation shall be closed. ²If the committee finds a case of academic misconduct to be founded, it shall report the most important reasons to the University Governing Board; it may make recommendations with regard to further action. ³The University Governing Board shall review the committee's recommendations and, if applicable, call the relevant decision-making bodies at the University to action, and urge that appropriate measures (see Annex 2) be taken. ⁴The University Governing Board shall make decisions with regard to complete or partial publication of the report and recommendations (see number 6, letter "c" in Annex 2).
- (3) ¹The relevant bodies in the faculties, namely the doctoral committees, shall generally make a decision after the Committee for Academic Self-Regulation submits its report and the University Governing Board has advised with regard to further action under the terms of para 2 sentence 3. ²The relevant bodies in the faculties are to involve the Committee for Academic Self-Regulation in an advisory role when making a decision; accordingly, the committee or its members assigned to address the matter are to be invited to the meetings of the faculties' relevant bodies in accordance with the regulations of such bodies. In urgent cases, the Committee for Academic Self-Regulation may – in derogation of para 2 sentence 3 – immediately inform the faculty's decision-making bodies and call them to action.

Part IV: Final clause

§ 11 Effective date, expiration, transitional provisions

- (1) ¹These regulations shall take effect on the day following their publication. They shall replace the "Rules concerning how academic misconduct is handled at the University of Bayreuth" (*Regeln zum Umgang mit wissenschaftlichem Fehlverhalten an der Universität Bayreuth*) issued by the University of Bayreuth's Senate in the 196th meeting of the Senate on 23 June 1999.

- (2) The ombudsperson and members of the Committee for Academic Self-Regulation (established in the 198th meeting of the Senate on 17 November 1999) at the time the present by-laws take effect, who were elected on the basis of the "Rules concerning how academic misconduct is to be handled at the University of Bayreuth", shall complete their terms in office; in derogation of § 6 para 1 sentence 1 and § 7 para 2 sentence 3, their terms shall begin when the by-laws take effect.
- (3) Any ongoing advising or investigative activities, including preliminary or formal investigations by the Committee for Academic Self-Regulation, that have not been completed by the effective date of the the present by-laws are to be continued under the terms of the present by-laws.

Annex 1

Partial overview of conduct that is considered to constitute academic misconduct

A case of academic misconduct (§ 4) is present if any of the following occur.

1. Misrepresentation:

- a) fabricating information;
- b) falsifying data, for example
 - aa) censoring undesired results without disclosing that you are doing so,
 - bb) manipulating diagrams and visual aids.

2. Intellectual property infringement against a copyrighted work created by someone else or against the scientific findings, hypotheses, teachings, or research approaches of others, for example:

- a) claiming or accepting unjustified authorship (plagiarism) – hence by way of wilful deceit concerning the true author – in which case any form of wilful intent may be relevant.
- b) exploitation of research approaches or ideas, especially as an assessor ("theft of ideas");
- c) claiming or accepting (for clarification, see a.) scientific (co-)authorship;
- d) claiming someone else's (co-)authorship without his or her consent;
- e) falsification of the content;
- f) unauthorized publication or release to third parties as long as the work, findings, hypotheses, teachings, or research approaches have not yet been published.

3. Impairing the research of others:

- a) sabotaging research activities including damaging, destroying, or manipulating experiment instructions or devices, hardware, software, chemicals, or anything else that is required for the experiment.
- b) deleting primary data, to the extent that it violates legal regulations or recognized principles of scientific practice.

Annex 2

Partial overview of possible consequences of academic misconduct

1. Consequences under employment and labour law:

Since in all or most cases of academic misconduct at the University of Bayreuth the accused is likely to be an employee or civil servant of the State of Bavaria and/or the University, all consequences under civil service and employment law must also be considered:

- a) in the case of civil servants, consequences under civil service law: disciplinary proceedings resulting in disciplinary measures (cf. Article 7 ff. of the Bavarian Disciplinary Act, *BayDG*);
- b) in the case of public employees, consequences under employment law (in particular, warning, dismissal, or termination of the contract).

2. Academic consequences:

Academic consequences in the form of revoking degrees can only be carried out by the University of Bayreuth if the offender received his or her academic degree from the University. If his or her academic degree was awarded by a different institution of higher education, that institution shall be informed of the academic misconduct if such misconduct was in connection with earning an academic qualification. In particular, consequences include revoking the offender's doctoral degree or authorization to teach.

3. Consequences under civil law, for example:

- a) being banned from the premises (Article 21 para 12 of the Bavarian Higher Education Act);
- b) repossession claims against the offender, for example for any scientific materials that were stolen;
- c) removal or injunctive relief, especially under copyright law, patent law, and competition law;
- d) damage claims (made by the State of Bavaria, the University of Bayreuth, or third parties) relating to material damages, etc.

4. Recovery claims under civil law or administrative law (e.g. relating to scholarships, third-party funds, budgetary grants).

5. Consequences under criminal and administrative law, in cases such as the following:

- a) violation of one's sphere of privacy (§202a of the German Criminal Code, *StGB*: data espionage, § 204 *StGB*: unauthorized use of another person's secrets);
 - b) offences against life and physical integrity (§ 222 *StGB*: involuntary manslaughter; §223 and § 229 *StGB*: injury or assault);
 - c) offences against property (§ 242 of the *StGB*: theft; § 246 *StGB*: embezzlement; § 263 *StGB*: fraud; § 264 *StGB*: economy subsidy fraud; § 266 *StGB*: breach of trust);
 - d) forgery of documents (§ 267 of the *StGB*: forgery of documents; § 268 of the *StGB*: falsifying technical illustrations);
 - e) material damage (§ 303 of the *StGB*: material damage; § 303a of the *StGB*: altering data);
 - f) Copyright infringements (§ 106 of the German Copyright Act, *UrhG*: unauthorized exploitation of copyrighted works).
6. Retraction of academic publications, public information material, and media:
- a) Academic publications that contain errors due to academic misconduct are to be retracted if they have not yet been published, and emended if they have already been published; if applicable, cooperation partners are to be notified in a suitable form. In principle, this is the responsibility of the authors and any editors involved; if they do not take action, the University of Bayreuth will take any suitable measures which it has at its disposal.
 - b) If academic misconduct is detected, the University of Bayreuth shall notify any research institution and scientific organizations that were affected. Where justified, it may be appropriate to inform professional organizations or learned societies.
 - c) In order to safeguard trust in its academic integrity or restore its academic reputation (or that of a faculty, a member of the teaching staff, or a doctoral student), the University of Bayreuth may, in particular, be obligated to inform the public and any third parties who are affected. The offender's consent should be sought.

Issued on the basis of a decision made by the University of Bayreuth's Senate on 25 April 2012 and approved by the President of the University of Bayreuth on 9 May 2012, Reference No. O 1103.

Bayreuth, 10 May 2012

PRESIDENT OF THE
UNIVERSITY OF
BAYREUTH
[signature of the President]

[seal of the University] Professor Dr. Rüdiger Bormann

These regulations were enacted at the University on 10 May 2012. They were announced on 10 May 2012 by posting a notice at the University. The date of the announcement is 10 May 2012.