Handouts for research data management:

Relevant guidelines

Disclaimer: This guide does not replace binding legal advice. In addition, the original language version of the guide is binding in case of doubt. This document is an unverified translation of the original document.

FAQ legal aspects

Who has the rights to use research data, e.g., in collaborative and joint projects?

If several researchers are involved in the collection of research data, the rights to the research data are exercised jointly by mutual agreement. The legislator makes no statements on the internal relationship and the procedure in the event of internal disagreement. Against this background, it is strongly recommended that agreements on the rights of use of the research data are made at the beginning of a research project. This can be done, for example, via a data management plan.

The DFG guidelines on good scientific practice also contain a corresponding passage: "The legal framework of a research project also includes documented agreements on the rights of use of the resulting research data and research results" (Guideline 10). This is not only recommended in order to avoid later conflicts. In particular, the case that individual members leave the team and can then no longer be contacted requires prior regulation.

Source:

- Depping, Ralf (2021): Rechtliche Aspekte des Forschungsdatenmanagements. Eine Einführung, https://kups.ub.uni-koeln.de/45599/1/fdm-recht.pdf

Is research data protected by copyright?

A distinction must be made between quantitative data and qualitative data. Pure measurement data, facts and information (quantitative data) are not protected by copyright. However, if they are evaluated or classified, this constitutes a creative achievement that is protected by copyright.

Qualitative data - including, for example, interviews and software scripts, but also drawings and plans - are protected by copyright if they fulfill the requirements of a work and therefore constitute an intellectual creation.

If research data is compiled in a database, it is also protected by copyright, as the database constitutes a personal intellectual creation (cf. Section 4 UrhG). Only the database producer has the exclusive right to reproduce, distribute and publicly reproduce the database in whole or in part (cf. Section 87b UrhG).

Source:

- https://www.google.com/url?q=https://www.tu.berlin/ub/szf/rechte-
pflichten/rechtliche-aspekte/urheber-und-
nutzungsrechte&sa=D&source=docs&ust=1727166612167384&usg=AOvVaw
21Vnz182vqjVX0zQdeLdEp

Who decides on the publication of research data?

To the university's own research projects applies: The guideline for handling research data at Wildau University of Applied Sciences (add link and publication date). These states:

"All researchers […] are also obliged to comply with good scientific practice when handling research data. The responsibility begins with the creation of the data and ends with its final deletion. The project leader is also responsible for the [...] publication (including re-usability) [...] of the research data. [...] Those responsible determine when and under what legal conditions research data is made accessible."

to third-party funded projects apply the requirements and contractual conditions of the funders.

In the case of collaborations, the publication has to be coordinated with the clients or project partners.

Is research data subject to data protection?

Research data is subject to data protection if personal data (Art. 4 No. 1 DSGVO) and special categories of personal data (Art. 9 para. 1 DSGVO) are collected.

Can the research data be made available for unrestricted re-use by any person?

If there are no reasons (e.g. copyright or related rights, personal or other sensitive data) against publication, the research data can be made publicly accessible in the spirit of open science.

However, research data (as well as research software) should always be provided with a suitable license (e.g. Creative Commons) that specifies the conditions under which the data may be used (e.g. right of use).

Legal background

Charta of Fundamental Rights of the EU and the German Constitution

Right to protection of personal data; processing of data only with consent; individuals have the right to information (Art. 8) -> this results in a duty of information for researchers; research and academic freedom (Art. 11) are subject to respect for general human rights (Art. 1); limits to freedom of research are therefore the fundamental rights of the participants/research subjects

Weiterführende Informationen:

- Charta: https://www.europarl.europa.eu/charter/pdf/text_de.pdf
- Hayes, Ben & Kuyumdzhieva, Albena (2021): Ethik und Datenschutz, https://zenodo.org/records/6259754

Employment and service contract law

The allocation of research data in science is regulated differently depending on the status or employment relationship of the persons involved. Researchers who conduct independent research retain the rights to their research data.

There are also different regulations for the public research sector in this respect. While the exploitation rights for an employee's research results outside of academia generally belong to the employer, in universities and public research institutions the research data is directly assigned to the researchers, provided that the underlying research is carried out "without instructions". This means that the regulations can also vary depending on the status or employment relationship:

In the case of professors, it is regularly assumed that their research is carried out without instructions and that they therefore also retain control over their research data. Students and external doctoral candidates can also be assumed to conduct research without instructions, as they are in an employment relationship with the respective university and the impulses of the respective supervisor of an examination paper do not have the character of instructions under employment law. In the case of student and research assistants, on the other hand, it can be safely assumed that their work is subject to instructions. Finally, in the case of research assistants, it depends on the individual case; there may well be cases of research that is not subject to instructions, but very often these employees are also involved in research groups that operate under the direction of a professor and are subject to instructions. In the case of research that is subject to instructions, the moral rights (e.g. the right to be named) remain with the respective researcher, while the rights of use to the research data lie with the respective university or research institution.

Source:

- Depping, Ralf (2021): Rechtliche Aspekte des Forschungsdatenmanagements. Eine Einführung, https://kups.ub.uni-koeln.de/45599/1/fdm-recht.pdf

Copyright

Copyright protection generally exists for qualitative research data (e.g. texts, illustrations, photos); in the case of quantitative research data (e.g. measured values), a creative achievement must be recognizable, e.g. in the evaluation.

Further information:

- https://www.tu.berlin/ub/szf/rechte-pflichten/rechtliche-aspekte/urheber-und-nutzungsrechte

Right of utilization

The right to commercially exploit a work; derives from copyright law; may be subject to restrictions in the context of research collaborations.

Further Information:

- https://wirtschaftslexikon.gabler.de/definition/verwertungsrechte-50439

Data protection right

Research data is subject to data protection if personal data (Art. 4 No. 1 GDPR) and special categories of personal data (Art. 9 para. 1 GDPR) are collected.

Further information:

- Entscheidungsbaum: Datenschutzrechtliche Fragestellungen für die Veröffentlichung von Forschungsdaten. Online: https://tu-dresden.de/gsw/phil/irget/jfbimd13/ressourcen/dateien/dateien/DataJus/Entscheidungsbaum-DataJusPDFAA2.pdf?lang=de

Higher-level policies and processes at TH Wildau

- Research data guideline:[1] The TH Wildau has a research data policy (RD policy), provides researchers with an orientation in research data management (RDM) and ensures that sufficient conditions are met so that the researchers can meet the requirements of research funders.

- Research data strategy:[2] The strategy defines the fundamental, long-term behavior and measures of the university and relevant sub-units to achieve its long-term goals in the handling of research data.

DFG guidelines on good scientific practice

This section lists and explains all guidelines of good scientific practice that are directly related to the handling of research data.

Source: Deutsche Forschungsgemeinschaft (2022). Guidelines for Safeguarding Good Research Practice. Code of Conduct. https://doi.org/10.5281/zenodo.6472827

Guideline 7: Cross-phase quality assurance

Researchers carry out each step of the research process *lege artis*. When research findings are made publicly available (in the narrower sense of publication, but also in a broader sense through other communication channels), the quality assurance mechanisms used are always explained. This applies especially when new methods are developed.

Explanations:

Continuous quality assurance during the research process includes, in particular, compliance with subject-specific standards and established methods, processes such as equipment calibration, the collection, processing and analysis of research data, the selection and use of research

software, software development and programming, and the keeping of laboratory notebooks. If researchers have made their findings publicly available and

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[1] TH Wildau. Leitlinie zum Umgang mit Forschungsdaten an der Technischen Hochschule Wildau. Amtliche Mitteilungen 08/2025 vom 27.02.2025. https://www.th-wildau.de/files/2_Dokumente/Amtliche_Mitteilungen/08_2025_FDM_Leitlinie_THWildau.pdf

[2] TH Wildau. Technische Hochschule Wildau. Strategie für das Forschungsdatenmanagement 2025-2030. Amtliche Mitteilungen 09/2025 vom 24.02.2025. https://www.th-wildau.de/files/2_Dokumente/Amtliche_Mitteilungen/09_2025_FDM_Strategie.pdf

subsequently become aware of inconsistencies or errors in them, they make the necessary corrections. If the inconsistencies or errors constitute grounds for retracting a publication, the researchers will promptly request the publisher, infrastructure provider, etc. to correct or retract the publication and make a corresponding announcement. The same applies if researchers are made aware of such inconsistencies or errors by third parties. The origin of the data, organisms, materials and software used in the research process is disclosed and the reuse of data is clearly indicated; original sources are cited. The nature and the scope of research data generated during the research process are described. Research data are handled in accordance with the requirements of the relevant subject area. The source code of publicly available software must be persistent, citable and documented. Depending on the particular subject area, it is an essential part of quality assurance that results or findings can be replicated or confirmed by other researchers (for example with the aid of a detailed description of materials and methods).

Guideline 10: Legal and ethical frameworks, usage rights

Researchers adopt a responsible approach to the constitutionally guaranteed freedom of research. They comply with rights and obligations, particularly those arising from legal requirements and contracts with third parties, and where necessary seek approvals and ethics statements and present these when required. With regard to research projects, the potential consequences of the research should be evaluated in detail and the ethical aspects should be assessed. The legal framework of a research project includes documented agreements on usage rights relating to data and results generated by the project.

Explanations:

Researchers maintain a continual awareness of the risks associated with the misuse of research results. Their responsibility is not limited to compliance with legal requirements but also includes an obligation to use their knowledge, experience and skills such that risks can be recognized, assessed and evaluated. They pay particular attention to the aspects associated with security-relevant research (dual use). HEIs and non-HEI research institutions are responsible for ensuring that their members' and employees' actions comply with regulations and promote this through suitable organizational structures. They develop binding ethical guidance and policies and define procedures to assess ethical issues relating to research projects.

Where possible and practicable, researchers conclude documented agreements on usage rights at the earliest possible point in a research project. Documented agreements are especially useful when multiple academic and/or non-academic institutions are involved in a research project or when it is likely that a researcher will move to a different institution and continue using the data he or she generated for his or her own research purposes. In particular, the researcher who collected the data is entitled to use them. During a research project, those entitled to use the data decide whether third parties should have access to them (subject to data protection regulations).

Guideline 11: methods und standards

To answer research questions, researchers use scientifically sound and appropriate methods. When developing and applying new methods, they attach particular importance to quality assurance and the establishment of standards.

Explanations:

The application of a method normally requires specific expertise that is ensured, where necessary, by suitable cooperative arrangements. The establishment of standards for methods, the use of software, the collection of research data and the description of research results is essential for the comparability and transferability of research outcomes

Guideline 12: Documentation

Researchers document all information relevant to the production of a research result as clearly as is required by and is appropriate for the relevant subject area to allow the result to be reviewed and assessed. In general, this also includes documenting individual results that do not support the research hypothesis. The selection of results must be avoided. Where subject-specific recommendations exist for review and assessment, researchers create documentation in accordance with these guidelines. If the documentation does not satisfy these requirements, the constraints and the reasons for them are clearly explained. Documentation and research results must not be manipulated; they are protected as effectively as possible against manipulation.

Explanations:

An important basis for enabling replication is to make available the information necessary to understand the research (including the research data used or generated, the methodological, evaluation and analytical steps taken, and, if relevant, the development of the hypothesis), to ensure that citations are clear, and, as far as possible, to enable third parties to access this information. Where research software is being developed, the source code is documented.

Guideline 13: Providing public access to research results

As a rule, researchers make all results available as part of scientific/academic discourse. In specific cases, however, there may be reasons not to make results publicly available (in the narrower sense of publication, but also in a broader sense through other communication channels); this decision must not depend on third parties. Researchers decide autonomously – with due regard for the conventions of the relevant subject area – whether, how and where to disseminate their results. If it has been decided to make results available in the public domain, researchers describe them clearly and in full. Where possible and reasonable, this includes making the research data, materials and information on which the results are based, as well as the methods and software used, available and fully explaining the work processes. Software programmed by researchers themselves is made publicly available along with the source code. Researchers provide full and correct information about their own preliminary work and that of others.

Explanations:

In the interest of transparency and to enable research to be referred to and reused by others, whenever possible researchers make the research data and principal materials on which a publication is based available in recognized archives and repositories in accordance with the FAIR principles (**F**indable, **A**ccessible, **I**nteroperable, **R**eusable). Restrictions may apply to public availability in the case of patent applications. If self-developed research software is to be made available to third parties, an appropriate licence is provided.

In line with the principle of "quality over quantity", researchers avoid splitting research into inappropriately small publications. They limit the repetition of content from publications of which they were (co-)authors to that which is necessary to enable the reader to understand the context. They cite results previously made publicly available unless, in exceptional cases, this is deemed unnecessary by the general conventions of the discipline.

Leitlinie 17: Archivierung

Researchers back up research data and results made publicly available, as well as the central materials on which they are based and the research software used, by adequate means according to the standards of the relevant subject area, and retain them for an appropriate period of time. Where justifiable reasons exist for not archiving particular data, researchers explain these reasons. HEIs and non-HEI research institutions ensure that the infrastructure necessary to enable archiving is in place.

Explanations:

When scientific and academic findings are made publicly available, the research data (generally raw data) on which they are based are generally archived in an accessible and identifiable manner for a period of ten years at the institution where the data were produced or in cross-location repositories. This practice may differ depending on the subject area. In justified cases, shorter archiving periods may be appropriate; the reasons for this are described clearly and comprehensibly. The archiving period begins on the date when the results are made publicly available.