LEGAL GUIDE FOR EDITORS CONCERNING ETHICS ISSUES

INTRODUCTION

Your responsibilities as an editor of a journal include the vetting and reviewing of articles submitted by authors. In most cases this process will be straightforward. However, in some cases, ethical issues may emerge either during the vetting and reviewing process or after publication when a complaint is made.

The ethical problems you may encounter include:

- Plagiarism
- Research results not being original to purported author
- Allegations about authorship of contributions
- Double submission

These guidelines are intended as a general guide to the legal aspects of misconduct claims, prepared by attorneys specialised in publishing law issues. Some journals may have somewhat different individual policies suitable for their disciplines or in accordance with the governing society procedures, for such matters as identification of authors and contributors, and the like. You may also want to refer to Elsevier’s general guidelines on ethics in journal publishing at: http://www.elsevier.com/wps/find/intro.cws_home/publishing.

Plagiarism

Plagiarism is committed when one author uses another work (typically the work of another author) without permission, credit, or acknowledgment. Plagiarism takes different forms, from literal copying to paraphrasing the work of another. In judging whether an author has plagiarized, the following definitions may be instructive:

\textit{Literal copying}

\textit{Reproducing a work word for word, in whole or in part, without permission and acknowledgment of the original source.}

Literal copying is obvious plagiarism and is easy to detect by comparing the papers in question.

\textit{Substantial copying}

\textit{Reproducing a substantial part of a work, without permission and acknowledgment of the original source.}

In determining what is “substantial,” both the \textit{quantity} and the \textit{quality} of the copied content are
Quality refers to the relative value of the copied text in proportion to the work as a whole. Where the essence of a work has been reproduced, even if only a small part of the original work, plagiarism may have occurred. For example, a relatively short extract from a piece of music may be instantly recognizable and may constitute a substantial part.

In addition to judging the quantity and quality of the copied content, you should consider the following question: Has the author benefited from the skill and judgment of the original author? The degree to which the answer to this question is “yes” will indicate whether substantial copying has taken place.

Copying without literal or substantial copying: Paraphrasing

Copying may take place without reproducing the exact words used in the original work. This type of copying is known as paraphrasing, and it can be the most difficult type of plagiarism to detect.

To determine whether unacceptable paraphrasing has occurred, you should apply a test similar to that for substantial copying: Look at the quantity and quality of what has been taken and also at whether the second author has benefited from the skill and judgment of the first author. If it seems clear, on a balance of probabilities, that the second author has taken without permission or acknowledgment all or a substantial part of the original work and used it to create a second work, albeit expressed in different words, then such use amounts to plagiarism.

Research results not being original to purported or identified authors

Authorship of research results is generally a verifiable question of fact. If there is any question as to whether research results reported in a submitted article are original to the purported author or authors, you should make inquiries of the authors and/or their institutions. You, as the editor, are well positioned to know what research is being carried out at any particular time, at any particular place, and by whom. This knowledge should assist you in directing inquiries to the appropriate individuals and institutions to verify whether a research claim is genuine. In addition, you may want to seek guidance from other specialists in the field of research.

Allegations about authorship of contributions

It is important that every author of a contribution be credited as such. It is equally as important that a person not be named as an author when he or she is not.

Authorship is not a clearly defined concept. To be an “author” one must have responsibility for a particular aspect (that is not minimal) of the research or preparation of the work, that is, must have made a significant contribution to the conception, design, execution, or interpretation of the reported study, and must have approved the final form of the work. Fundamentally, an author must be prepared and have the ability and responsibility to publicly defend the work.

You may wish to use the following standard as a test for authorship: All Authors of a paper have the ability and responsibility to publicly defend that paper.

A trivial contribution would not be sufficient to confer the status of author. Lesser contributions to a work can be recognized by clearly crediting such person as a “contributor,” rather than an “author.”

An author submitting an article is required to identify all co-authors and any other contributors (and to obtain consent from them for the publication of the article). Where necessary, you should seek clarification from authors and contributors to establish exactly who has done what in relation to the article and the research. You should require that all those who satisfy the test of authorship outlined above are in fact credited as co-authors.
Duplicate submission

Articles submitted for publication must be original and must not have been submitted to any other publication.

Except in very unusual circumstances (and then only with your agreement as the editor), authors are expected to submit articles that are original and have not been submitted to any other publication. Occasionally, authors may disregard this requirement, submitting the same paper to multiple journals or submitting multiple papers based on the same research. As with plagiarism, duplicate submission may take several forms: literal duplication, partial but substantial duplication, or even duplication by paraphrasing. Some journals have editorial policies that prohibit or discourage the publication of numerous papers based on the same research.

Cases of literal or substantial literal duplication should be reasonably easy to detect and remedy. Cases closer to paraphrasing or involving the same research are much more difficult to detect or analyze. This is particularly so when an author writes about his or her own research in two or more articles from different angles or on different aspects of the research. In such cases, an objective judgment of whether duplicate submission has taken place must be made, based on your knowledge of the area of research. In difficult cases, you may need to seek guidance from other specialists in that field of research.

An author may publish a paper in a language other than English in a journal of local circulation and may then submit an English-language version to an Elsevier journal. You may decline to publish a paper of this kind. If it is the journal's policy is to publish some papers of this kind, and you feel it is appropriate to do so, you may agree to publish the paper provided that the proper procedure has been followed:

• Full disclosure has been made to the editor of all previous publications of the paper in any language.

• A full and reasonably prominent note, usually in the form of a footnote on the title page that records the prior publication, accompanies the English-language version of the paper.

• All necessary consents have been obtained from the previous publisher of the paper in any other language and from any other person who might own rights in the paper.

HOW TO DEAL WITH ISSUES WHEN THEY ARISE

When suspicion or allegations arise regarding any of these issues, you should follow the guidelines listed below:

General guidelines

Ideally, such issues should be addressed after submission and prior to publication. Due to the relevance of the underlying scientific issues to any such dispute (e.g. your knowledge of research currently being conducted), it is crucial that you play the leading role and be the central point for all communications with complainants, authors, reviewers and the editors of other journals (if appropriate). As the editor, your investigation and consideration and ultimately conclusion as a result of such investigation will be fundamental to the resolution of the dispute. Elsevier staff will provide support and assistance at your request and as you deem appropriate, and you should promptly inform and coordinate with your publishing editor when and as any such disputes arise.
When you suspect that an ethics violation may exist in relation to an article submitted or when you receive an allegation concerning a submitted article, please take the following steps:

1. It is essential as a matter of due process that you raise the issue with the corresponding author and in some cases with a specific co-author whose actions are complained about—in some circumstances all co-authors of the article in question may need to be contacted. You should seek an explanation and, where necessary, the provision of evidence supporting that explanation.

2. You should also seek an explanation from and the views of any complainant, together, where necessary, with evidence supporting that explanation.

3. You should seek the complainant's views on any explanation and evidence provided by the author. Similarly, you should seek the views of the author on any explanation and evidence provided by the complainant.

At this point in the investigation, you may be satisfied that there has been no ethical violation. If not, however, you should continue to investigate the matter:

4. If the authors are unable to satisfy you on a balance of probabilities that there has been no violation, then you must carry out further investigation. The depth of the investigation will vary from case to case, but may include the following steps:

   - Further investigating any allegations made by third parties
   - Speaking to colleagues of any author
   - Speaking to officials at any institutions where the research in question was carried out
   - Speaking to officials at any professional body or institution of which any author is a member
   - Speaking to other leading experts in the field of research in question
   - Speaking to members of the editorial advisory board of the journal
   - Working with any professional body with an investigative mission such as the Committee on Publication Ethics (COPE, see http://publicationethics.org/).

Caution regarding defamation claims

In carrying out any investigation, you should take great care to act fairly and objectively and not to defame any author (or complainant) in any way, which could give rise to legal liabilities, including damages. To avoid defamation claims by authors, you should bear in mind the following guidelines in your investigation:

   - Make any inquiries of an author's institution in terms of an “alleged” or “apparent” violation. The inquiries should clearly state the facts and the allegation without premature judgment of the author's culpability.

   - Be careful to gather information while imparting as little information as possible about the suspicion or accusation. To assist with information gathering, Elsevier will provide you, upon your request, sample letters to use in investigating claims of unethical behavior.

Please remember that your role is not to make a final definitive finding of whether a violation has occurred. You need only investigate to a point sufficient to satisfy yourself that, on a balance of probabilities, after having made reasonable and diligent inquiries, there either is or is not, prima facie, an issue.
Practical consequences of findings

If you decide that, prima facie, there is no issue, publication may take place or continue (as the case may be) in the normal way.

If you decide that there has been unethical practice, you may reject the paper. If unethical practice is discovered after the article has been published, you, together with Elsevier, should consider whether retraction of the article or, in very exceptional cases, removal is appropriate.

Elsevier’s Retraction and Removal procedures can be found on the publisher’s Web site at http://www.elsevier.com/wps/find/intro.cws_home/Article%20Withdrawal. There are a number of alternatives to retraction as well, such as the publication of “notes of concern”, corrigendum, letters to the editor, editorial statements, and the like.

Legal consequences of findings

In the case of plagiarism, there may be an infringement of copyright and, possibly, also moral rights. Moral rights include the right of an author of a work to be identified as such, as well as the right of an author to prevent changes to his or her work that are of a derogatory nature.

In the case of research results not being original to the purported author and allegations about authorship of contributions, there may be an infringement of the moral rights outlined above, but also infringement of a person’s moral right not to have a work attributed to him or her when not the author.

In all cases of ethical misconduct, there is likely to be a breach of contract by the author, who will have contravened the terms of his or her publishing agreement with the publisher or the relevant instructions to authors.

You should keep the publisher promptly and regularly updated if any ethics violations are suspected. If necessary, and particularly where there may be legal liability, the publisher may wish to seek legal advice internally or externally. The publisher will always have the right to take over the conduct of an investigation from an editor if the publisher considers it advisable to do so.

OTHER JOURNALS/PUBLICATIONS

When a paper has been published in another journal or other publication and it appears that this paper (1) plagiarizes a paper published in the journal you edit, (2) contains research results that are not original to its author but are original to the author of a paper published in the journal you edit, or (3) has already been published in whole or in part in the journal you edit, please observe the following procedure.

• As a first step, contact the editor of the publication in which the offending paper appears, seeking a full explanation. It is to be hoped that the editor of that publication will take steps similar to those recommended by these guidelines in relation to our publications.

• If that editor fails to investigate the matter properly or is not able to satisfy you on a balance of probabilities that there is no issue, then you should follow the steps recommended when the suspected offending paper appears in your journal. That is, you should investigate the suspicion or allegation by initially contacting the author(s) of the offending publication for an explanation, and continuing the investigation to its necessary conclusion.

June 2007
Version 1.1