

**Academic Staff Senate
Document Final**

August 21, 2000

**UNIVERSITY OF WISCONSIN-MILWAUKEE ACADEMIC STAFF
RESEARCH MISCONDUCT POLICY**

SUMMARY: The proposed policy addresses conduct of an Academic Staff member that has the potential to affect the integrity of the research endeavors and establishes procedural safeguards for handling allegations of research misconduct. The proposed policy addresses conduct subject to administrative action and applies only to research misconduct as defined in the policy. It does not supersede government policies and procedures for addressing other matters, such as the ethical treatment of human or animal research subjects used in research, nor does it supersede criminal or civil law. It does not limit institutional policies and prerogatives in addressing other forms of misconduct, including those that might occur in the course of conducting research, including the misuse of public funds.

I. DEFINITIONS

A. Misconduct: Research misconduct includes fabrication, falsification, plagiarism, violations of requirements for the protection of human or animal subjects, and other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include unintentional error or honest differences in interpretations or judgements about data.

Retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith will not be tolerated. Retaliation means any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has in good faith, made an allegation of scientific misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.

B. Research Integrity Officer (RIO): The Associate Provost for Research and Dean of the Graduate School (Dean), or his/her designee, serves in this capacity at the University of Wisconsin-Milwaukee (UWM). The Dean is responsible for overseeing the implementation of these policies and procedures, conducting preliminary inquiries upon receipt of allegations, and submitting required reports and recommendations. At the same time, the Dean is responsible for respecting the sensitive nature of the demands made on those who conduct research, those who are accused of misconduct, and those who report misconduct in apparent good faith. The Research Integrity Officer can consult at any time during this process with University Legal Counsel.

C. Complainant: Any person who makes an allegation of scientific misconduct.

D. Respondent: The Academic Staff member against whom an allegation of scientific misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

E. Inquiry: An inquiry means a confidential informal preliminary gathering of information and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation.

F. Investigation: An investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and, if so, to determine the responsible person and the seriousness of the misconduct. A fair hearing as defined in section III. I. of this document will follow any formal investigation.

G. Confidentiality: Consistent with a fair investigation and as allowed by law, knowledge and disclosure of information about the identity of subjects and informants is limited to those who need to know for purposes of administering these policies and procedures. Records maintained during the course of responding to an allegation of misconduct should be exempt from disclosure under the Freedom of Information Act to the extent permitted by law and regulation.

H. Designated Recipients: Designated recipients include the Chancellor, Provost and Vice Chancellor, Dean, principal investigator and co-principal investigator in any cases in which they are not named as respondent or complainant and if applicable, relevant federal agencies.

I. Academic Staff Research Misconduct Review Committee (ASRMRC): An ad hoc committee of the academic staff, authorized by the Academic Staff Committee and chaired by an academic staff member appointed by the Academic Staff Committee (ASC). These individuals must be qualified academic staff from within the UW System Review and with a 50% or greater appointment. The appointed chair must have at least a 50 percent UWM appointment in a position in an employment category similar to the respondent, defined in III.F.

J. Time Limits: The time limits as specified number of days shall be considered to be working days under this policy.

II. STATEMENT OF INTENT It is the intent of the University of Wisconsin-Milwaukee to foster a research environment that discourages misconduct in all research and that deals forthrightly with allegations of research misconduct. The policies and procedures established for the investigation of research misconduct are designed to protect both the *respondent* and the *complainant(s)* from detrimental effects, including loss of reputation, until the investigation is completed and the findings made public. This policy does not annul or replace any existing policy or set of procedures outlined in the UWM Academic Staff Personnel Policies and Procedures.

III. PROCEDURES

A. If not already resolved by administrators at the departmental, school, college, divisional or unit level, a complaint alleging research misconduct shall be forwarded in writing to the Research Integrity Officer (RIO), as the Chancellor's designee to receive allegations, pursuant to UWS 11 & 13. The complaint is considered filed and becomes official on the date it is received by the Research Integrity Officer.

B. Preliminary Inquiry: The RIO shall be responsible for conducting an immediate inquiry into an allegation or other evidence of possible misconduct. The preliminary inquiry shall be considered informal and confidential; it shall be conducted in a manner that protects the privacy of both the respondent and the complainant(s) to the maximum extent possible. If requested by either party, the identity of the respondent and the complainant will be kept confidential throughout the preliminary inquiry. The preliminary inquiry is conducted to determine whether there is probable cause to believe that research misconduct has occurred and, if so, whether a full investigation is warranted. The preliminary inquiry must be completed and the report (see below) filed with designated recipients within 60 days of receipt of the allegation, unless extraordinary circumstances clearly warrant a longer period of inquiry, in which case, a written statement of the extraordinary circumstances must be included in the report.

C. Report of Preliminary Inquiry: A written report shall be prepared, which states the evidence reviewed, including testimonial evidence, and the findings and conclusions of the inquiry. Regardless of conclusion, a copy of the preliminary inquiry report shall be given to the respondent and the complainant. The respondent has the right to make, within 15 working days, a written response or comment, which shall be made part of the record.

D. Determination of Need for Investigation: If the RIO, on the basis of the preliminary inquiry,

determines that a full investigation is warranted, he/she shall promptly so inform the Chancellor and Provost and Vice Chancellor in writing.

E. Referral to Academic Staff Committee: Upon notification by the Chancellor that investigation is warranted, the ASC shall constitute the Academic Staff Research Misconduct Committee.

F. Constitution of the Academic Staff Research Misconduct Review Committee: Upon notification, the ASC, after consultation with other institutional officials as appropriate, will appoint five members to the Academic Staff Research Misconduct Review Committee (ASRMRC), designating one of the committee members as chair within ten (10) days of the initiation of the investigation. The ASRMRC should consist of individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary and appropriate expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the investigation. The ASC will appoint alternative persons, if necessary, to replace any selected persons who decline to serve or who are disqualified or who disqualify themselves from the hearing on research misconduct before the Committee.

Any person on the ASRMRC who may have a conflict of interest, either real or apparent, shall be replaced with another member. If the chair is disqualified, a fifth member shall be chosen according to the specifications above. The Committee, as constituted, shall conduct an investigation as specified below.

The ASC will notify the respondent of the proposed committee.

G. Charge to the Committee and First Meeting: The RIO will define the subject matter of the investigation in a written charge to the ASRMRC that describes the allegations and related issues identified during the inquiry, defines scientific misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, and key witnesses to determine whether, based on preponderance of the evidence, scientific misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the Committee will notify the RIO. The RIO will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

H. Investigation:

1. Purpose of the Investigation: The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent.

2. Process: In conducting any investigation and hearing, the ASRMRC shall secure necessary expert testimony as appropriate to conduct a thorough and authoritative evaluation of the relevant evidence. Whenever possible, the committee should interview the complainant, respondent(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the respondent(s) should be tape recorded or transcribed. All other interviews should be transcribed, tape recorded, or summarized. Summaries or transcripts of the interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigation file. The findings of the investigation will be set forth in an investigative report.

3. Time Line: The ASRMRC shall commence an investigation within 20 days of the date upon which the Committee was constituted.

The investigation and hearing must be completed, disciplinary action (if necessary) recommended, and report filed with the funding agency within 120 days of commencement.

I. Fair Hearing: Whenever it is decided to utilize formal fact-finding procedures, the concerned academic staff member shall be assured of a fair hearing. This includes the right to present testimony or evidence in the academic staff member's behalf, to cross-examine witnesses, and to be represented by any person of the academic staff member's choice. Prior to convening the fair hearing, the Chair of the ASMRC may request that the Chancellor provide the ASMRC with legal counsel. The Chair of the ASRMRC shall convene the fair hearing. The Dean shall have an opportunity to present evidence through the Dean's designated representative. The provisions for a fair hearing shall include:

(1) Service of notice of hearing with a specification of the complaint at least twenty (20) days prior to the hearing. (2) A right to the names of the parties bringing the complaints and of access to any documents which will be relied upon to support the misconduct allegations. Adjournments shall be granted to investigate evidence to which a valid claim of surprise is made. (3) A right to be heard in his/her own defense by all bodies passing judgment. (4) A right to counsel, other

representative, or individuals to offer witnesses. (5) A right to confront and cross-examine witnesses against him/her. (6) A right to have the hearing tape recorded. A copy of the tape will be made available without cost, upon request, to the concerned academic staff member. (7) Admissibility of evidence as governed by Wis. Stats. , S227.45. (8) A written finding based on a clear preponderance of the evidence will be provided. (9) A finding of fact and recommendations based on the hearing record. (10) A right to either a public or a closed hearing at the discretion of the respondent. (11) The right to prompt consideration and deliberation by the committee.

J. Committee Review and Decision: In determining if a report of misconduct and recommendations for disciplinary action shall be reported to the Chancellor, Provost and Vice Chancellor and RIO, at least three (3) members of the ASRMRC must concur that misconduct occurred. When this condition is not met, no misconduct shall be reported. The vote shall be reported to the Chancellor, Provost, Vice Chancellor and RIO. If a member of the ASRMRC disqualifies himself/herself after the hearing has commenced, no new member shall be added.

K. Report of Investigation, Findings, and Recommendations: A written report shall be prepared and transmitted to the Chancellor. A copy of this report shall be given to the designated recipients and the respondent. The respondent shall have the right to make written objections on the record within fifteen (15) days of receipt of the report. The Chancellor shall have fifteen (15) days from receipt of written objections to determine if he or she wishes to reject, modify or accept the original findings. The entire appeal process will be completed within thirty (30) days from the original receipt of the findings and recommendations.

The Chancellor shall inform the designated recipients and the ASRMRC of his/her decision within fifteen (15) days of receipt of the appeal deadline.

IV. DEAN'S ADMINISTRATIVE PREROGATIVE During the course of any inquiry or investigation, the Dean shall have the prerogative to take interim administrative actions, as appropriate, to protect Federal funds and insure that the purposes of the Federal financial assistance are protected.

V. REPORTING REQUIREMENTS

A. Public Health Service Grants

1. Any time it becomes apparent that any one of the following circumstances exists, the Dean is required to report such circumstances to the funding agency:

a. when a preliminary inquiry indicates that an investigation is warranted; **b.** when there is an immediate health hazard; **c.** when there is an immediate need to protect Federal funds or equipment; **d.** when there is an immediate need to protect the interests of the complainant(s) or the respondent; or **e.** when it is probable that the allegations will be reported publicly.

2. Whenever there is reasonable cause to believe that criminal violations have occurred, the Dean is required to report such to the funding agency within 24 hours of receipt of the information supporting such belief.

B. National Science Foundation Grants: Any time it becomes apparent that an allegation of misconduct warrants an investigation (as defined in I.F., above), the Dean is required to report that conclusion to the funding agency.

C. Grants from Other Extramural Agencies: Regulations and requirements for reporting research misconduct to other extramural funding sources will be incorporated into this policy, as they are announced by the agency.

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