University of Wisconsin-Milwaukee

Academic Staff Document No. 11

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Academic Staff Research Misconduct Policy

(please see document below)
UNIVERSITY OF WISCONSIN-MILWAUKEE ACADEMIC STAFF
RESEARCH MISCONDUCT POLICY

I. DEFINITION

A. Misconduct. Research misconduct includes fabrications, 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 of or judgments about data.

B. Dean. The Associate Provost for Research and Dean of the Graduate School, or his or her designee.

C. Inquiry. A confidential, informal preliminary investigation.

D. Investigation. A formal, thorough investigation, complete with a fair hearing as defined in section III.H. of this document.

E. Academic Staff Research Misconduct Review Committee. An academic staff standing committee, authorized by the Academic Senate and chaired by an academic staff member elected annually for a one-year term. The elected chair must have at least a 50 percent UWM appointment in a position with an Academic Staff Category B research or clinical title, as defined in III.F. below.

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 possible research misconduct. The policies and procedures established for the investigation of research misconduct are designed to protect both the accused and the accuser 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 or college level, a complaint alleging research misconduct shall be forwarded to the Dean, as the Chancellor's designee, pursuant to UWS 6.01.

B. Preliminary Inquiry

The Dean shall be responsible for conducting a preliminary inquiry. The
preliminary inquiry shall be considered informal and confidential; it shall be conducted in a manner that protects both the accused and the accuser(s). If requested by either party, the identity of the accused and the accuser will be protected 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 prolong the 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 accused and the accuser. The accused 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 Dean, on the basis of the preliminary inquiry, determines either that there is probable cause to believe that research misconduct occurred or that an investigation is warranted, the Dean shall promptly so inform the Chancellor in writing.

E. Referral to Academic Staff Research Misconduct Review Committee

If the Dean determines that an investigation is warranted, he/she shall promptly refer the matter to the Academic Staff Research Misconduct Review Committee for consideration.

F. Constitution of the Academic Staff Research Misconduct Review Committee

Each time a request is made for a review of the allegations of research misconduct by the Academic Staff Research Misconduct Review Committee, the elected chair of the Academic Staff Research Misconduct Review Committee shall randomly select the names of four persons to serve on the Academic Staff Research Misconduct Committee to review allegations of research misconduct. Names will be drawn from the complete list of all UWM staff with at least a 50 percent appointment in a position with an Academic Staff Category B research or clinical title. No more than two persons may be appointed from the same school/college/division. The chair
will appoint alternative persons, if necessary, to replace any selected Academic Staff Category B 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 Academic Staff Research Misconduct Review Committee 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 and the five (5) members of the Committee shall select a chair from among themselves. The Committee, as constituted, shall conduct an investigation as specified below.

G. Investigation

The Academic Staff Research Misconduct Review Committee shall commence an investigation with 30 days of the date upon which the report of the preliminary inquiry was filed.

In conducting any investigation and hearing, the Academic Staff Research Misconduct Review Committee shall secure the necessary expert testimony as appropriate to conduct a thorough and authoritative evaluation of the relevant evidence.

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

H. 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. 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 may be relevant to the complaint. 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 or other representative and 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. 227.10.

(8) A finding of misconduct based on a clear preponderance of the evidence.

(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 academic staff member concerned.

(11) The right to prompt consideration and deliberation by the committee.

I. Findings

A finding of misconduct and recommendations for disciplinary action shall be reported to the chancellor only when at least three (3) members of the Academic Staff Research Misconduct Review Committee concur. When this condition is not met, a finding of no misconduct shall be reported. The vote shall be reported in any case. If a member of the Academic Staff Research Misconduct Committee disqualifies himself/herself after the hearing has commenced, no new member shall be added.

J. Report of Investigation, Findings, and Recommendation by the Academic Staff Research Misconduct Review Committee

A written report shall be prepared and transmitted to the Chancellor. A copy of this report shall be given to the accused, and the accused shall have the right to make written objections on the record.

The Chancellor shall inform the academic staff member and the Academic Staff Research Misconduct Committee of his/her decision within fifteen (15) working days of receipt of the recommendation of the Academic Staff Misconduct Review Committee.
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 accuser(s) or the accused; 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.D., 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.