

UNIVERSITY SENATE
UNIVERSITY AT ALBANY
STATE UNIVERSITY OF NEW YORK

Introduced by: Committee on Ethics in Research and Scholarship

Date: April 12, 2010

Changes to University at Albany
Policy and Procedures on Misconduct in Research and Scholarship

IT IS HEREBY PROPOSED THAT THE FOLLOWING BE ADOPTED:

1. That the attached revised policy become effective immediately.
2. That this proposal be forwarded to the President for approval.

RATIONALE:

History:

In the summer of 2007, CERS began considering some issues of streamlining inquiries and removing barriers to consultation with and within CERS. Discussion in fall 2007 included issues of timeliness of notification to complainant and respondent, and a need for clarification in the standards of misconduct included the requirement that "the misconduct be committed intentionally, knowingly, or recklessly." In the spring of 2008 then Interim President Philip became concerned about cases which he felt should have been dismissed or handled differently and recommend to CERS that it form an ad hoc committee including the Provost, Vice President for Research, the Compliance Officer, and University Counsel. CERS charged the ad hoc committee, which also included the membership of CERS, to investigate issues including "clarifying and/or providing guidelines of what does and does not ordinarily fall under "research and scholarship," and to submit to CERS a draft of proposed changes, which it did in early June of 2008. CERS reviewed the proposal in fall 2008 and circulated the changes in December to the full senate. Additional changes were proposed by University Counsel, but not fully reconciled with the CERS version by late spring of 2009. A bill was submitted to the senate in May 2009, but failed in favor of a motion to approve formation of an ad hoc committee including members of CERS and GOV. The ad hoc joint committee began meeting in September. It took as its basis the cleaner formatting and organization proposed by University Counsel, while retaining most of the original policy text, as revised by the 2008 ad hoc committee. The joint committee finished its work in early December 2009 and sent the proposed text to the Provost, Interim VPR and University Counsel) and to CERS. The CERS chair had several meetings with University Counsel in January and took the Counsel's concerns to CERS, which then prepared a final version, sent to University Counsel, COR, GOV and the Senate Executive Committee in March 2010.

Issues

Scope and Definitions of "misconduct," "research," "scholarship," and "reckless"

"Misconduct" (ll. 60-71) is specified as including misrepresentation of credentials, but not honest error, differences of scholarly interpretation, or informal presentations such as classroom lectures. "Research" (ll. 81-82) includes in its definition development, testing, and evaluation. "Scholarship" (ll. 109-110) includes

artistic works in an individual's field. "Reckless" (ll. 79071) is defined as showing serious indifference to accepted scholarly practices. Ignorance is not an excuse.

Confidentiality vs. Respect for a Good Faith Complainant

Good faith (ll. 43-46) does not involve motive, but belief and intentional knowledge i. e., the complainant must honestly believe that the allegation is true and must not have willfully remained in ignorance of facts that would negate the allegation. A complainant must maintain the confidentiality of the proceedings and testimony during the proceedings, but after the final determination is free of any bonds of confidentiality as far as the final determination and his or her allegation and testimony are concerned. (ll.184-91).

Conflict of Interest

Conflict of interest (ll. 136-38) covers professional, personal, and financial relationships. The complainant and respondent are provided opportunity at the different stages of the proceedings to raise an objection against a committee member or official involved in the proceedings on the grounds of a conflict of interest (ll. 124-26, 145-49, 192-96, 299-303, 408-20). Provision is made for the possibility that the Vice President for Research may have a conflict of interest (ll. 91-93, 238-42).

Streamlining the Inquiry Phase

Since there is always a danger that the inquiry committee may unwittingly morph into an investigation committee, the limited scope and time period of the inquiry committee is spelt out (ll. 321-39).

Timeliness of the Entire Process

The process should be completed within 120 days (ll. 424-28), with the inquiry phase taking no more than 60 days from the appointment of the inquiry committee (ll. 267-68, 363-64). The investigation phase is also required to be completed in 60 calendar days, unless unavoidable circumstances force a prolongment, explained in writing by the Vice President (ll. 445-50). If the whole process takes more than 120 days in cases involving federal dollars (ll. 540-45), the Vice President of Research will explain in writing to the Office of Research Integrity why this is so. At each stage in the process, deadlines are given when reports need to have been completed.

Statute of Limitations

There is in effect no statute of limitation for misconduct save where the evidence needed for a fair evaluation requires unpublished data and/or research records that are more than six years old or in cases involving Public Health Service support, where federal regulations apply (ll. 624-32).

Compliance with Federal Regulations

Federal regulations always trump UAlbany regulations in cases where federal dollars are involved (ll. 8-9, 19-20, 142-43, 189-91, 207-09, 282-85, 396-99, 525-35, 545-61, 621-23, 631-32, 646-38).