DRAFT – Sept. 2004

University at Albany Policy on Misconduct in Research and Scholarship[1]

I. Purpose

The purpose of this policy is to address violations of academic integrity as related to misconduct in research and scholarship, including misconduct in artistic expression**.**

Maintenance of high ethical standards in research and scholarship is a central and critical responsibility of the University. In keeping with the commitment to integrity in the pursuit of truth, and in compliance with federal regulations, the University at Albany will immediately review reports of suspected misconduct or other evidence of misconduct; thoroughly investigate such instances if the initial inquiry concludes that an investigation is warranted; take appropriate action following the investigation, including imposition of sanctions if allegations of misconduct are substantiated; and fulfill reporting and other federal requirements in the case of sponsored research.

II. Applicability

This policy shall be followed in responding to all reports of suspected research and scholarly misconduct (hereinafter referred to as "misconduct"), including misconduct in artistic expression and performance, on the part of faculty, researchers, staff, and students. This policy is not limited to acts of misconduct committed while the individual was affiliated with the University. In the case of students, this policy shall not apply to academic course work which is covered under the provisions of academic integrity as contained in the Undergraduate and Graduate Bulletins.

III. Summary of Procedure

The institutional response to reports of suspected misconduct includes the following steps. Detailed guidelines and requirements are described in the remainder of this policy. Relevant definitions are given in the Appendix.

---

[1] This policy document was completed by the Committee on Ethics in Research and Scholarship in summer 2004, and it forms a substantial revision of a draft version completed by the Office of the Vice President for Research in May 2003.

A. Initial Assessment of Suspected Misconduct

Suspected misconduct is reported to the Vice President for Research who informs the Chair of the Committee on Ethics in Research and Scholarship (CERS).

Inquiry
If either the Vice President for Research or the CERS Chair concludes that an inquiry should be conducted, an Inquiry Committee will make a recommendation as to whether the allegation of misconduct warrants a formal investigation.

B. Investigation
If the President authorizes an investigation, an Investigation Committee formally examines and evaluates the evidence and other relevant information to determine if misconduct has occurred.

C. Institutional Actions
The President reviews the investigation report and the recommendation of the Vice President for Research, makes the final determination whether misconduct has occurred, and imposes appropriate institutional sanctions.

IV. General Guidelines for Assessment, Inquiry and Investigation of Suspected Misconduct

In accord with its principles and in compliance with federal regulations, the University will adhere to the following guidelines.

A. Rights and Responsibilities of the Complainant

Rights: The complainant reporting suspected misconduct will be afforded fairness and respect. The complainant will be informed of the formal allegations in writing when an inquiry is opened. The complainant may be requested to provide testimony to the inquiry and investigation committees, will have the opportunity to review portions of the inquiry and investigation reports pertinent to the complainant's report or testimony, and will be informed in writing of the results of the inquiry and investigation, and of the final determination.

The Vice President for Research will make every effort to ensure the privacy and confidentiality of complainants. The University will protect, to the maximum extent possible, the position and the reputation of those who in good faith report apparent misconduct in research. The identity of a complainant who provides testimony to inquiry or investigation committees may not be withheld from the respondent.

The Vice President for Research will work to ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the University and will review instances of alleged retaliation for appropriate action. Any alleged or apparent retaliation should be reported immediately to the Vice President for Research.

Responsibilities: The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating fully with an inquiry or investigation.

B. Rights and Responsibilities of the Respondent

Rights: The respondent of an allegation of misconduct will be afforded fairness and respect, a prompt inquiry into the allegations, and a thorough investigation if one is deemed necessary. The University will assure the rights of the accused person(s) to respond to the allegations both during the course of and at the conclusion of any inquiry and investigation.

The respondent will be informed of the allegations in writing when an inquiry is opened and notified in writing of the final determinations and resulting actions. The respondent may be requested to provide testimony by the inquiry and investigation committees, and will have the opportunity to review the draft inquiry and investigation reports, and to have the advice of counsel.

When insufficient evidence of possible misconduct is found, the Vice President for Research will, as appropriate, undertake diligent efforts to restore the reputation of the respondent.

Responsibilities: Except as far as necessary to prepare an effective response, the respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation.

C. Conflict of Interest

The University will take precautions against real or apparent conflicts of interest on the part of those involved in any inquiry and investigation resulting from an allegation of misconduct.

D. Confidentiality

Throughout the inquiry and investigation process the confidentiality of information regarding the complainant, the respondent, and other affected individuals will be protected to the maximum extent possible, consistent with the law, University policy, state and federal regulations, and effective and efficient proceedings. All members of inquiry and investigation committees and other participants in, or advisors to, the inquiry and investigation must observe confidentiality of the proceedings and any information and documents reviewed as a part thereof. Outside of official contexts, they must not discuss the matters with the respondent, complainant, witnesses, or anyone not authorized by the Vice President for Research. The obligation of confidentiality pertains to the complainant and the respondent as well. If the final institutional determination results in a finding of misconduct, the

President of the University will determine what additional parties shall be notified of the outcome, consistent with SUNY policies and applicable laws.

E. Membership of Committees

Members of Inquiry and Investigation Committees shall be individuals who do not have real or apparent conflicts of interest, are unbiased, and have the necessary expertise to evaluate the evidence. They may be faculty members, administrators, or other qualified persons, and may be from inside or outside the University.

F. Procedural Issues

The chairs of the Inquiry and Investigation Committees may consult with the Vice President for Research regarding the inquiry or investigation, as appropriate. Any member of these committees concerned about procedures or process should first consult with the chair of the appropriate committee and, if the issue is not resolved, with the Vice President for Research as the institutional official responsible for the case. In this instance, the Vice President for Research will adjudicate the issue in consultation with the chair of the relevant committee, the committee member, and the CERS chair.

G. Regulatory Requirements

In case the alleged misconduct involves research supported by federal agencies, the University will comply with applicable current federal procedural guidelines and regulations.

The University will comply with all New York State and federal regulations regarding maintenance and access to records and documentation resulting from inquiries and investigations into alleged misconduct. The University will take appropriate interim administrative actions to protect federal and other funds and ensure that the purposes of the federal financial assistance are being carried out.

At any time during an inquiry or investigation, where applicable, the University shall immediately notify the appropriate federal sponsoring agency if public health and safety is at risk; if sponsoring agency resources or interests are threatened; if research activities are suspended; if there is a reasonable indication of possible violations of civil or criminal law; if federal action is required to protect the interests of those involved in the investigation; if the University believes the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved; and if the research community or public should be informed.

H. Evidentiary Standards

The burden of proof for making a finding of misconduct is on the University.

The standard of proof for a finding of misconduct will be by a preponderance of evidence. This means that the evidence shows that it is more likely than not that the respondent committed misconduct.

I. Maintenance of Documents

The Vice President for Research will locate, collect, inventory, and secure relevant research records to prevent the loss, alteration, or fraudulent creation of records. During this process the Vice President for Research shall follow the guidelines detailed in *ORI Model Procedures*. The University will maintain for at least seven years complete documentation of the investigation process, proceedings, inquiry and investigation reports, findings, and recommendations. Documents shall be kept in the offices of the University Counsel for safekeeping.

V. Reporting of Suspected Misconduct and Initial Assessment

All employees or individuals associated with the University should report observed, suspected or apparent misconduct to the Vice President for Research. To the extent possible, the identity of complainants who wish to remain anonymous (such as a student who provides evidence of plagiarism in the form of two published articles) will be kept confidential. If an individual is unsure whether a suspected incident falls within the definition of misconduct detailed in this policy, or if that individual wishes to learn more about general procedural matters pertaining to this policy, he or she may informally contact the Vice President for Research or the Chair of CERS. Reports of suspected misconduct, or other evidence of possible misconduct, from whatever source, will receive immediate attention. The Vice President for Research will promptly and fully inform the CERS Chair of any report or evidence of possible misconduct that has been received.

If either the Vice President for Research or the CERS Chair concludes that a reasonable basis for an Inquiry exists, the Vice President for Research will initiate an Inquiry without delay by preparing a formal written allegation outlining the charges of suspected misconduct.

If during the assessment of suspected misconduct it is determined that the suspected misconduct pertains to another area of non-compliance (human subjects, animal subjects, fraud, etc.), the Vice President for

Research will refer the individual or evidence to other institutional officials or authorities, as appropriate.

VI. Inquiry

The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the complainant, respondent, and key witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct occurred or who was responsible.

Initiation of the Inquiry

In initiating the inquiry, the Vice President for Research shall prepare a formal allegation in writing and clearly identify any related issues that should be evaluated. The Vice President for Research ensures that pertinent records (or citations to them) are obtained and placed in an inquiry file.

B. Formation of the Inquiry Committee

In consultation with the CERS chair, the Vice President for Research shall appoint the Inquiry Committee and its chair within 10 days of the initiation of the inquiry. The Inquiry Committee shall include at least one CERS member.

C. Notification of the Respondent and Complainant

The Vice President for Research, in consultation with the University Counsel, will notify the respondent in writing of the initiation of the inquiry. The notification should:

- include the written allegation(s) and identify the research, scholarship, or artistic performance or expression in question,
- list the members of the Inquiry Committee, and
- include a copy of the University at Albany Policy on Misconduct in Research and Scholarship.

This notification shall be transmitted to the respondent within 10 calendar days of the initiation of the inquiry.

The respondent may submit a written objection to any appointed member of the Inquiry Committee based on bias or conflict of interest within 5 calendar days of notice. Upon receipt of such objection the Vice President for Research will promptly determine in consultation with

the CERS Chair whether to replace any challenged member with a qualified substitute.

The Vice President for Research shall notify the complainant in writing of the initiation of the inquiry, of the formal allegation(s), and of the obligation to cooperate in the inquiry.

D. Response to Allegation

If the respondent admits to any material aspect of the allegation(s) of misconduct, he or she should be asked to sign a statement attesting to the occurrence and the extent of the misconduct. An admission of misconduct will automatically terminate the inquiry process and result in the Vice President for Research recommending an investigation to the President.

E. Procedures

E. The inquiry must be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. If the inquiry takes longer than 60 calendar days to complete, the record of the inquiry shall include documentation of the reasons for exceeding the 60-day period.

The Vice President for Research shall ensure that individual interviews are scheduled with the respondent and complainant so that the inquiry process has direct input from both parties. The interviews shall be conducted by the Inquiry Committee and staffed by the Office of the Vice President for Research. The Committee will permit the respondent, complainant, or witnesses to bring an advisor to the interview. The advisor may act solely as an observer and shall not participate in the proceedings. The University shall always have the option of having its attorney present.

Interviews with the respondent will be transcribed or recorded. Interviews with anyone else will be summarized, recorded, or transcribed.

F. Inquiry Report and Recommendation of the Vice President for Research

The Inquiry Committee shall submit a written report to the Vice President for Research. This report must indicate what evidence was reviewed, summarize statements and interviews from relevant individuals, and present the conclusions of the committee as to whether sufficient evidence exists to warrant an investigation. The Vice President for Research will provide the respondent with a copy of the draft inquiry report for comment and rebuttal and will provide the complainant with those portions of the draft report that address the complainant’s role and opinions in the inquiry. The respondent and complainant will be given 14 calendar days from the transmission of

the report to provide their written comments. Any written responses to the report by either party will be made part of the report and record.

The Vice President for Research shall transmit the inquiry report and a recommendation to the President of the University and to the Chair of CERS.

G. Decision by the President

The President will make the final determination whether the findings of the inquiry provide sufficient evidence of possible misconduct to justify the initiation of an investigation, or whether additional information or clarification is necessary. If the President does not concur with a committee finding of sufficient evidence of possible misconduct, he or she may ask the Committee to re-review the allegation(s). If the President determines that there is insufficient evidence of possible misconduct, the case will be terminated.

The President's decision marks the end of the Inquiry.

The Vice President for Research shall notify the respondent, the complainant, all persons involved in the inquiry (i.e., anyone who has been interviewed or otherwise informed of the allegations) and the chair of CERS of the President's decision.

H. Reports not Made in Good Faith

If relevant, the Vice President for Research, in consultation with the chair of CERS, will determine whether the complainant's report of suspected misconduct was made in good faith. If a report was not made in good faith, the Vice President for Research will determine whether any administrative action should be taken against the complainant.

VII. Investigation

The purpose of the investigation is to explore the allegations in detail, to examine the evidence in depth, and to determine specifically whether the respondent has committed misconduct. The investigation may also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations.

A. Initiation of the Investigation

If an investigation is deemed necessary, the President shall authorize the Vice President for Research to initiate the investigation. The Vice

President for Research shall notify the Chair of CERS of the initiation of the investigation.

When an investigation involves a sponsored program through the Research Foundation, the Vice President for Research will notify the Research Foundation of SUNY (Office of the General Counsel and Secretary). The University will also notify relevant federal or other external granting agencies and partnering institutions, in accordance with applicable regulatory requirements. The University will take interim administrative actions, as appropriate, to protect federal and other funds and ensure that the purposes of the federal financial assistance are being carried out.

B. Formation of the Investigation Committee

In consultation with the CERS Chair, the Vice President for Research shall appoint the Investigation Committee and its chair within 10 calendar days of the initiation of the investigation. The Investigation Committee shall include at least one CERS member, normally including the CERS member(s) who served on the Inquiry Committee. It may also include other individuals who served on the Inquiry Committee**.**

C. Notification of the Respondent and Complainant

The Vice President for Research, in consultation with the University Counsel, shall notify the respondent in writing of the initiation of the investigation. The notification should include:

- a copy of the final inquiry report;
- the specific allegations;
- a list of members of the Investigation Committee.

The respondent may submit a written objection to any appointed member of the Investigation Committee based on bias or conflict of interest within 5 calendar days of notice. Upon receipt of such objection the Vice President for Research will promptly determine in consultation with the CERS Chair whether to replace any challenged member(s) with a qualified substitute.

The Vice President for Research will also notify the complainant in writing of the initiation of the investigation and of the obligation to cooperate with the process and to maintain confidentiality.

D. Investigation Process

The Vice President for Research is responsible for conducting the investigation. The investigation must be completed within 120 calendar days of its initiation unless circumstances clearly warrant a longer period. If the investigation takes longer than 120 calendar days to

complete, the record of the investigation shall include documentation of the reasons for exceeding the 120-day period.

The Vice President for Research shall provide the necessary support and staff to the Investigation Committee for the conduct of the investigation and shall monitor the progress.

The Vice President for Research will determine if additional experts other than those appointed to the Investigation Committee need to be consulted during the investigation to provide special expertise to the committee regarding the analysis of specific evidence. In such cases, the experts provide a strictly advisory function to the committee; they do not vote and generally do not interview witnesses. The experts may be chosen from inside or outside the University.

The investigation process will include, but not necessarily be limited to, examination of pertinent research data and written materials, interviews with all individuals involved either in making the allegation or against whom the allegation is made, and statements from or interviews with other individuals who might have information regarding the allegation.

Interviews with the respondent will be transcribed or recorded. Interviews with anyone else will be transcribed or recorded if practical, or else summarized.

E. Investigation Report and Recommendations of the Vice President for Research

The Investigation Committee will prepare a written report of the conclusions of the investigation. This report will include a summary of the inquiry process, a listing of the allegations, the composition of the Investigation Committee, the evidence, and a summary of any dissenting views from members of the Investigation Committee. The report should indicate whether or not misconduct has been found for each allegation, and provide the specifics to support the conclusions. For findings of misconduct, the report should identify the type of misconduct, and the extent and seriousness of the misconduct, including its effect on research findings, publications, and research subjects. The Investigation Committee may offer recommendations on how to correct any relevant public record.

The Vice President for Research will provide the respondent with a copy of the draft investigation report for comment and rebuttal and will provide the complainant with those portions of the draft report that address the complainant's role and opinions in the investigation. The respondent and complainant will be given 14 calendar days from the transmission of the report to provide their written comments. Any

written responses to the report by either party will be made part of the report and record.

Upon receipt of the final report, including written comments from the respondent or complainant, the Vice President for Research shall prepare a recommendation to the President and shall transmit both the report and the recommendation to the President and to the Chair of CERS.

The investigation concludes when the President makes the final determination and the report is submitted to federal officials, as applicable.

VIII. Institutional Actions

A. Decision by the President

The President reviews the report of the Investigation Committee and the recommendations of the Vice President for Research. In this process, the President may consult with the Investigation Committee to clarify facts, seek further information, or to ask the Committee to reconsider the allegations and evidence.

The President will make the final institutional determination in writing of whether misconduct has occurred.

The Vice President for Research shall notify the respondent in writing of the President's decision. If no procedural appeal according to Section B is filed, the Vice President for Research will notify all other affected individuals, parties and organizations, as detailed in Section E, of the President's decision.

B. Appeal

Within 14 calendar days of receipt of written notification of a finding of misconduct, the respondent may appeal to the President on the sole question of whether the procedures prescribed in this policy have been followed correctly. The appeal must be in writing and must specify the nature of the procedural error. The President shall issue a decision within 30 calendar days, affirming or vacating the determination of research misconduct, with the option to reopen the investigation.

C. Finding of No Misconduct

If an allegation of misconduct is unsubstantiated, the Vice President for Research will undertake appropriate diligent efforts to restore the reputation of the individual against whom the allegations have been presented.

D. Sanctions

If an allegation of misconduct is substantiated, The President shall consult with CERS, and with the Vice President for Research, the University Counsel, the Director of Human Resources, and the Vice President for Student Affairs, as appropriate, regarding disciplinary actions. In such cases the President shall reveal to CERS any information pertaining to the case or the respondent as might be required for effective consultation.

Disciplinary sanctions may include, but are not limited to:

- a reprimand,

alteration of the respondent's employment or academic status, including probation, suspension, salary reduction, rank reduction, or termination,

- correction of the research record including a requirement to withdraw or correct abstracts, manuscripts, reports, or grant/contract proposals,
- correction of academic credentials such as curriculum vitae, activity reports, and websites,
- public disclosure,
- requirement for participation in training programs,
- removal from a project,
- requirement of a letter of apology,
- requirement of monitoring the respondent's research or scholarly activities.

Disciplinary proceedings and sanctions must be consistent, as applicable, with established University, Board of Trustees, and Research Foundation policies, the student code of conduct, and the collective bargaining agreement.

The President makes the final decision and informs the respondent regarding disciplinary actions.

IXE. Notifications

In consultation with CERS and with the recommendation of the Vice President for Research, the President shall make the final determination as to which concerned parties should be notified of the President's decision. In addition to respondent and complainant, typically this would include the Investigation Committee members, Inquiry Committee members, the Research Foundation of SUNY (the Office of the General Counsel and Secretary) and all persons known to have knowledge of the investigation (i.e., any one who has been interviewed or otherwise informed of the allegations). Furthermore, in case there is a finding of misconduct, appropriate members of the research and scholarly community should be informed, so as to correct the public record. The University will also notify relevant federal or other external granting agencies and partnering institutions, where applicable and in accordance with regulatory requirements.

IX. Annual Report to CERS

The Vice President for Research shall provide an annual report to CERS with statistics on misconduct proceedings. The report will contain no specific information on individuals.

APPENDIX: DEFINITIONS

A. **Allegation** means a formal statement of charges of possible misconduct, normally prepared by the Vice President for Research upon the initiation of an Inquiry.

B. **Complainant** means a person who reports observed, suspected, or apparent misconduct. A complainant may not remain anonymous to the Vice President for Research or any other University official designated to administer this policy.

C. **Committee on Ethics in Research and Scholarship (CERS)** is the University committee charged to author, review, and implement policies governing allegations of misconduct. The composition of CERS and its responsibilities are detailed in the Charter of the University Senate.

D. **Conflict of Interest** means the interference of one person's interests with the interests of another person, so as to create the potential for bias.

E. **Fabrication** means making up results and recording or reporting them.

F. **Falsification** means manipulating research materials, equipment, processes, or changing or omitting data or results so that the research is not accurately represented in the research record.

G. **Good Faith Report** means a **report** of suspected misconduct made with the honest belief that the misconduct may have occurred. A report is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the charges.

H. **Inquiry** means information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

I. **Inquiry Committee** means the committee that is charged with conducting an inquiry into an allegation of misconduct.

J. **Institutional Counsel** means legal counsel who represents the University during the misconduct inquiry and who is responsible for advising the Vice President for Research, the Inquiry and Investigation committees, and the President. The institutional counsel does not represent the respondent, the complainant, or any other person participating during the inquiry, investigation, or any follow up action, except University officials responsible for managing or conducting the University misconduct process as part of their official duties.

K. Institutional Official means the individual charged with the responsibility of responding to allegations of misconduct and with conducting all misconduct inquiries and investigations. The institutional official in cases of misconduct is the Vice President for Research.

L. Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

M. Investigation Committee means the committee that is charged with conducting an investigation into an allegation of misconduct.

Jim Acker version (May 2004):

N. Misconduct means:

(1) misrepresentation of academic credentials or scholarship;

(2) fabrication, falsification, or plagiarism in proposing, conducting, or reviewing research or in research results; or

(3) other practices involving violations of academic integrity that significantly deviate from practices commonly accepted within the academic community in research and scholarship and in artistic performance and expression.

A finding of misconduct requires that:

(a) there be a significant departure from accepted practices of the relevant research or scholarly community;

(b) the misconduct be committed intentionally, knowingly, or recklessly; and

(c) the allegation be proven by a preponderance of the evidence.

O. Plagiarism means the appropriation of another person's ideas, processes, results or words without giving appropriate credit.

P. Research Record means any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted or reported misconduct that constitutes the subject of an allegation of misconduct. A research record includes, but is not limited to, grant or contract applications, whether sponsored or not; grant or contract progress reports; laboratory notebooks; notes; correspondence; electronic communication; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; portfolios and laboratory procurement records. It shall also include Institutional Review Board or Institutional Animal Care and Use Committee records or documentation if these relate to or form the basis of an allegation of research misconduct based on fabrication, falsification or plagiarism, or other practices that seriously deviate from those commonly accepted with the academic community.

Q. **Respondent** means the person who is alleged to have committed possible misconduct.