

UNIVERSITY SENATE
UNIVERSITY AT ALBANY
STATE UNIVERSITY OF NEW YORK

Introduced by: Committee on Ethics in Research and Scholarship

Date: February 14, 2011

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 ways to streamline and clarify the process of inquiry, investigation, and determination in cases of alleged scholarly misconduct. In the spring of 2008, President George Philip became concerned about cases that he felt should have been handled differently and recommended the formation of an ad hoc committee including the Provost, Vice President for Research, the Compliance Officer, the University Counsel, and members of CERS to investigate various issues including “clarifying and/or providing guidelines of what does and does not ordinarily fall under ‘research and scholarship.’” In 2009, CERS incorporated the work of the ad hoc committee into a new CERS text. On May 8, 2009 the Senate requested a joint GOV-CERS committee to consolidate further input on the bill. At the start of the 2009-2010 academic year, CERS created a joint committee consisting of Edward Cupoli of GOV and Carolyn MacDonald and John Monfasani of CERS. The committee took as its base text the reorganized draft prepared by the University Counsel John Reilly of the original policy as revised by the 2008 ad hoc committee. The new joint committee finished its work in early December 2009, but had not received feedback from the administration when the new revised text was brought to the Senate floor in May 2010. So the Senate agreed to table a vote until fall 2010. Discussions with University Counsel through the fall and winter led to further postponement until now.

Issues

Scope and Definitions of “misconduct,” “research,” “scholarship,” and “reckless”

“Misconduct” (ll. 74-87) is specified as including misrepresentation of credentials, but not honest error, differences of scholarly interpretation, or informal presentations such as classroom lectures. “Research” (ll. 99-101) includes in its definition development, testing, and evaluation. “Scholarship” (ll. 132-133) includes artistic works in an individual’s field. “Reckless” (ll. 85-87) 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. 51-62) 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 (ll. 222-

224), but after the final determination no bond of confidentiality is imposed as far as his or her allegation is concerned.

Conflict of Interest

Conflict of interest (ll. 40-42) covers professional, personal, and financial relationships. The complainant (implicitly in ll. 175-179) and respondent (explicitly in ll. 202-214, 460-466) 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. Provision is made for the possibility that the Vice President for Research (i.e., the University's Research Integrity Officer) may have a conflict of interest (ll. 208-210).

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. 299-313).

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. 310-313). The investigation phase is also required to be completed in 120 calendar days, unless unavoidable circumstances force a delay, explained in writing (ll. 411-19). If the whole process takes more than 120 days in cases involving federal dollars (ll. 568-574), 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. 658-672).

Compliance with Federal Regulations

Federal regulations always trump University at Albany regulations in cases where federal dollars are involved (ll. 7-8, 88-93, 165-169, 330-334, 413-414, 443-447, 524-525, 552-559, 563-576, 586, 601-602, 656-657, 675-677).