

Due process should be accorded to every University employee. Dealings must be equitable and effective with all matters pertaining to conflicts of interest. We have failed badly in dealing with this issue in our grievance process.

For example, consider the kangaroo court proceeding of the CAFT that has been taking place in this very room on February 20 and 21, ^{March 6} and yesterday until late at night and continuing this very evening (Monday), tomorrow and for many more sessions this month until the first part of May. How can this hearing continue when the principal, Marguerite Kay, facing serious Administration charges, is unable to participate because of legitimate medical reasons? CAFT Committee and Panel Chair Glisky declared that no good cause existed for postponing the proceeding. If Kay's being unable to participate because of legitimate medical reasons is not a good cause, then just what cause would be good enough to justify a postponement? The decision of the Panel Chair appears to have been influenced by a bias and a conflict of interests.

What about Attorney Simmons, hired by the Administration to serve as counsel to the CAFT Panel? Jerry Hogle has indicated that the Faculty has not paid for her services. Unless Ms. Simmons serves the Panel for her own pleasure, the Administration must be paying for it. If so, the University is paying for a situation that clearly involves a conflict of interests.

When I asked CAFT Panel Chair Glisky for the names of the Faculty members serving on the current Kay Panel, Glisky said that she was not "permitted" to reveal their identities because the hearing was closed. Where in the University Rules and Regulations does it state that the names of the panelists cannot be disclosed in a closed hearing? We have been given to understand that the CAFT panel is a Faculty panel and the chair has the authority to make her own decisions. The Panel Chair must have received instructions from her legal counsel, Ms. Simmons.

It is an affront and an outrage to have so many University lawyers dictate to the Faculty what they can and cannot do. I am still waiting for President Likins to tell us how much we have already spent on prosecuting the Marguerite Kay case and how much we are paying for the services of Dale Danneman of Lewis and Roca as the designated Counsel of the University administration

Finally, what is the intellectual, ethical and legal justification for the University to proceed with the Kay hearing without the physical presence of Marguerite Kay? We need some clear and immediate answers to these questions from Hogle and Likins.

I request that a copy of my statement be included as a part of this Senate proceeding.

Chair of the Faculty's Report

to the Faculty Senate

April 2, 2001

1. The General Faculty elections for 2001-03 -- see information in the Senate packet for today
2. The status of the Faculty Grievance Policy passed by this Senate (as amended) on March 5 -- *amendments to come; Gen. Faculty vote in the Fall*
3. All Senate and General Faculty Committee reports for 2000-01 due *Monday, April 23* -- to be included in Senate packets for the meeting on May 7
4. The status of University budget requests with:
 - the State Legislature
 - the Arizona Board of Regents (*tuition*)
 - the UA Cabinet and SPBAC
5. Thank you's to all Senators, chairs, and committees
6. Special awards for Extraordinary Service to the General Faculty of the University

Thanks for all of it!

It has been a pleasure to work with everyone here.

THE UNIVERSITY OF
ARIZONA[®]
TUCSON ARIZONA

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Committee on Elections

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Press Release
March 14, 2001

The Committee on Elections met on March 12 to tabulate the ballots in the General Faculty elections. At that meeting, the committee also reviewed nominating petitions for the second election, which was scheduled because there is one year left in the term of the Vice Chair of the Faculty and Presiding Officer of the Faculty Senate with the resignation of Jory Hancock to run for Chair of the Faculty, and there were insufficient numbers of candidates for the Committee on Committees and the Senator-at Large positions. One petition was received for the position of Vice Chair of the Faculty. Four petitions were received for Senator-at-Large for the second election. No petitions were received for the Committee on Committees.

Election Results:

CHAIR OF THE FACULTY

Jory P. Hancock

VICE CHAIR OF THE FACULTY

*Wanda H. Howell

COMMITTEE ON ACADEMIC FREEDOM AND TENURE

Anne E. (Betty) Atwater

Julie Anne Plax

Darrel E. Goll

Ann Weekes

COMMITTEE ON COMMITTEES

Shitala P. Mishra

COMMITTEE OF ELEVEN

Adela I. De La Torre

Peter E. Medine

J. D. Garcia

Andrew Silverman

Tom Holm

ELECTED FACULTY REPRESENTATIVES TO THE STRATEGIC PLANNING AND BUDGET
ADVISORY COMMITTEE (SPBAC)

Victor R. Baker

John Schwarz

Peter Wierenga (for a special one-year term, 2001-2002)

FACULTY SENATE AT-LARGE REPRESENTATIVES

Roger L. Caldwell

*Roy G. Spece, Jr.

John P. Warnock

J. D. Garcia

J. Glenn Songer

Marlys H. Witte

*Juan C. Heinrich

Maliaca G. Strom

*J. Edward Wright

Shitala P. Mishra

Miklos N. Szilagy

Malcolm J. Zwolinski

Shirley J. O'Brien

Neil E. Tatman

*submitted unopposed petition for second election

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March 14, 2001

TO: All members of the General Faculty

FR: The Committee on Elections

RE: The Second Faculty Election this year

After receiving petitions for the second General Faculty election of this Spring, as per our announcement of February 28, we have found that we have only one candidate for Vice Chair of the Faculty (for a one-year term), four candidates for ten remaining at-large seats in the Faculty Senate, and no candidates for the two remaining seats on the General Faculty Committee on Committees. The amendments to the Constitution and Bylaws of the General Faculty passed onto you by the Senate on March 5 are also not yet ready for full distribution. We have therefore made the following decisions, after consultation with the current Chair of the Faculty:

1. We have declared **Professor Wanda H. Howell** elected as Vice Chair of the Faculty and Presiding Officer of Faculty Senate, effective May 1. We also note that, in accepting this election, Professor Howell has resigned her position as Secretary of the Faculty effective April 30, leaving open a one-year term for a new Faculty Secretary in 2001-2002.
2. We have declared **Professors Juan C. Heinrich, Roy G. Spece, Jr., Niel E. Tatman, and J. Edward Wright** elected to two-year at-large terms in the Faculty Senate, effective May 1. They join the other new at-large Senators already voted in by our first Faculty Election this Spring. Six seats in the Senate remain vacant, however. In accordance with previous practice in such an event, we have asked the current Committee on Committees to nominate additional Senators to the Faculty Senate Executive Committee. The Executive Committee will then bring six General Faculty names to the Senate for ratification at the May meeting, where the new Senate will be installed.
3. With no petitions filed for the next Committee on Committees, we have asked (again) the current Committee on Committees to nominate at least two eligible faculty members to the incoming Chair of the Faculty. The new Chair of the Faculty will then appoint the two remaining Committee members, in consultation with the Faculty Senate Executive Committee. Those two will join **Professor Shitala P. Mishra** as new members, since he was elected to this Committee in our first election.

4. To fill the vacant Secretary position that comes open May 1 for a year, we ask for petitions to be filed by prospective candidates (with 40 signatures) to the Faculty Center by 5 p.m. March 30. If there is more than one candidate by that deadline, a mail ballot will be sent out to all members of the General Faculty via campus mail. The election for the above-referenced position will be held from April 9 to April 23. To request a petition, please call the Faculty Center, 621-1342, or e-mail us at *facsen@u.arizona.edu*.
5. This additional mail ballot should, in any case, also include the proposed amendments to the Faculty Constitution and Bylaws recently passed on by the Senate. The bulk of these, if passed and approved by the President, mandate a revised Faculty Grievance Procedure effective in the 2001-02 academic year. As per the Faculty Constitution, the current Chair of the Faculty will call a General Faculty meeting for discussion and consideration of these amendments.

We respectfully thank our colleagues for their interest and patience. Questions may be directed to us at the Faculty Center e-mail address noted above. We wish everyone a great end to the Spring Semester. Thank you for your attention and involvement.

COMMITTEE ON ELECTIONS, 2000-2001

Dr. Jan P. Regnier, Chair
Dr. Nancy S. Huber
Prof. Stephen J. Paul



MEMORANDUM

TO: Members, Faculty Senate Executive Committee
CC:
FROM: Charlie Hurt, Chair, RPC
DATE: 16 March 2001
SUBJECT: Revision of the Scholarly and Scientific Integrity Policy



Attached is a revision of the Scholarly and Scientific Integrity Policy. It reflects changes suggested by various members of Senate and others. Please note that changes are flagged in either the right or left margin with a vertical line. The actual changes are reflected in two ways. If the change is a deletion, the text is struck through. If the change is an addition, the text is slightly grayed and is underlined. Please note that the line numbers have changed, of necessity, from the draft of 21 February.

I regret that I will not be able to present the revision at the Executive Committee meeting. Jerry Hogle agreed to present the draft in my absence. Your comments and notes will be most welcome.

It is my understanding and it is the hope of the Research Policy Committee that the presentation of this revision at the Senate's meeting in April will be the second reading of the policy. Under the rules of the Senate, I understand it will be on the floor for second reading and possible action.

Thank you for your comments to this point.

Attachment:

Draft of 16 March 2001

Scholarly and Scientific Integrity Policy

Introduction

A community of scholars and researchers has an obligation to ~~themselves~~ itself and to the general public to exercise integrity and ethical behavior in their scholarly and research activities. The primary responsibility for scholarly and research integrity rests with the individuals who perform research and undertake scholarship and other creative endeavors. To ensure its obligations to the public, the community of researchers and scholars at the University, and to the state and federal government agencies involved in monitoring and partnering with the academic community, the University promulgates this policy.

Scope

It is the policy of the University of Arizona that research, scholarly work, and creative endeavors carried out by its faculty, staff and students be characterized by the highest standards of integrity and ethical behavior. Each member of the University community has a personal responsibility for implementing this Policy in relation to any research, scholarly work or creative endeavor, whether or not externally sponsored, with which he or she is associated and for helping his or her associates in continuing efforts to avoid any activity which might be considered in violation of this Policy. It is, therefore, a fundamental responsibility of the faculty, staff, students and administration of the University of Arizona to ensure that misconduct in scholarship and research is dealt with in a timely and effective manner, and that the reputation of the University for high standards of scholarly integrity is preserved.

Any use of this Policy to bring malicious charges or charges not otherwise in good faith against any individual, and any act of retaliation or reprisal against an individual for reporting in good faith a charge of misconduct, will be dealt with through regular administrative processes for violations of University policies. Individuals making good faith reports under this Policy are entitled to protection against retaliation for such reports, even if the allegation is not confirmed. Individuals making reports of scholarly or research misconduct may be entitled to whistleblower protection as described in other University policies and consistent with federal and state requirements.

This policy relates to all scholarship and research conducted by the University of Arizona, whether by faculty, scientists, trainees, technicians and staff members, students, fellows, visiting scholars, guest researchers, consultants, or collaborators, whether funded or not.

42 *University Expectations and General Principles*

43
44 1. The University expects researchers and scholars to maintain and further the
45 highest standards of ethical practices in scholarship and research. Especially important
46 are integrity in recording and reporting results, care in the execution of scholarship and
47 research, and fairness in recognition of the work of others.

48
49 2. The University expects researchers and scholars to be responsible for the
50 integrity of their own scholarship and research, and for the integrity of the scholarship
51 and research conducted by those they supervise.

52
53 3. The University expects researchers and scholars to keep timely, complete,
54 thorough, and verifiable records and to ensure the preservation of these records for the
55 University.

56
57 4. The University expects those who witness or have reason to believe
58 misconduct occurred to report the alleged misconduct to the University Research
59 Integrity Officer. If an individual is unsure whether a suspected incident falls within the
60 definition of misconduct, s/he will contact the University Research Integrity Officer to
61 discuss the suspected misconduct informally. If the circumstances or conduct do not meet
62 the definition of scholarly or research misconduct, but may fall under the provisions of
63 other University policies, the University Research Integrity Officer will refer the
64 individual to other University offices or officials with responsibility to resolve such
65 matters expeditiously.

66
67 5. The University expects all personnel assigned to address charges of misconduct
68 to do so in a fair and objective manner, respecting the rights of all involved.

69
70 6. The University expects that any allegations made under this policy will be
71 made in good faith.

72
73 7. The University expects that all individuals involved in scholarly activities and
74 research will participate in educational activities within their colleges and the University,
75 which are designed to inform the campus community of their obligations under this
76 policy, under other University policies related to research and scholarly activities, and
77 mandated under federal and/or state statutes, regulations and/or guidelines for conducting
78 research.

79
80 8. The University expects that all University employees will cooperate with the
81 University Research Integrity Officer and other institutional officials who review
82 allegations and conduct inquiries and investigations. Employees have an obligation to
83 provide relevant evidence to the Research Integrity Officers and other institutional
84 personnel charged with investigating allegations of misconduct.

85

86 ***Misconduct Defined***

87

88 Misconduct is defined as fabrication, falsification, or plagiarism or other practices that
89 seriously deviate from those that are commonly accepted within the relevant research and
90 scholarly community in proposing, performing or reviewing research or creative
91 endeavors, or in reporting research results or the results of creative endeavors. Research
92 and scholarship as used in this policy, includes all basic, applied, and demonstration
93 research and creative endeavors in the arts, sciences, and applied fields.

94

- ***Fabrication*** is making up data or results and recording or reporting them.

95

- ***Falsification*** is manipulating research or scholarship materials, equipment, or
96 processes, or changing or omitting data or results such that the scholarship or
97 research is not accurately represented in the record.

98

- ***Plagiarism*** is the appropriation of another person's ideas, processes, results, or
99 words without giving appropriate credit, including those obtained through
100 confidential review of others' scholarship and research such as by reviewing
101 proposals or manuscripts.

102

103 Misconduct in research or creative endeavors does not include honest error or differences
104 of opinion.

105

106 ***Findings of Misconduct***

107

108 A finding of misconduct requires that:

109

- There be a significant departure from accepted practices of the relevant research
110 or scholarly community; ***and***
- The misconduct be committed intentionally, or knowingly, or recklessly; ***and***
111
- The allegation be proven by a preponderance of evidence.
112

113

114 ***Research Integrity Officer***

115

116 The Vice President for Research, in consultation with the President and in accordance
117 with the shared governance agreement, will appoint the Research Integrity Officer, who
118 will have primary responsibility for implementation of the procedures set forth in this
119 Policy. The Research Integrity Officer will assist the inquiry and investigation
120 committees and other personnel in carrying out this policy and with any applicable
121 standards imposed by compliance entities or government or external funding sources.
122

122

123 The Research Integrity Officer will be responsible, at any stage of an inquiry or
124 investigation, for compliance with reporting requirements imposed by the research
125 sponsor, and for taking appropriate interim administrative actions to protect Federal and
126 private funds and ensure that the purposes of the Federal and private financial support are
127 being carried out, including any such requirements concerning reporting to the Office of

128 Research Integrity of the Department of Health and Human Services, or the National
129 Science Foundation, or any other agency where applicable.

130

131 The Research Integrity Officer will notify the applicable federal agency at any stage of
132 the inquiry or investigation if: (1) there is an immediate health hazard; (2) there is an
133 immediate need to protect federal funding or equipment; (3) the allegation involves a
134 public health sensitive issue (e.g., a clinical trial); (4) there is a reasonable indication of
135 possible criminal violations which must be reported within twenty-four hours of
136 obtaining the information; (5) there is an immediate need to protect the interests of the
137 person[s] making the allegation [complainant] or of the individual[s] who is the subject
138 of the allegation[s] [respondent] as well as the co-investigators and associates, if any; or
139 (6) it is probable that the alleged incident is going to be publicly reported.

140

141 The Research Integrity Officer is also responsible for reporting anticipated delays in the
142 investigation process and for notifying the funding agency of the outcome of the
143 investigation. The inquiry and investigative committees under this Policy are responsible
144 for keeping the Research Integrity Officer apprised of information that the committees
145 receive related to any of these reporting requirements. The Research Integrity Officer
146 will also take steps to notify research sponsors of the initiation of an investigation in
147 accordance with applicable law and regulations.

148

149 *Preservation of Evidence and the Research Record*

150

151 | When the University Research Integrity Officer determines that an inquiry by UCEC is
152 necessary, then s/he will preserve all potential evidence related to the case. Once the
153 | University Research Integrity Officer instructs the chair of UCEC to establish an
154 | inquiry panel, this evidence will be listed by the UCEC panel and secured by the
155 University Research Integrity Officer in the presence of or with the assistance of the
156 respondent, if possible. The respondent will cooperate with the University Research
157 | Integrity Officer in obtaining and preserving all the evidence. In the case where the
158 respondent is unwilling or unable to cooperate, the University Research Integrity Officer
159 will preserve the evidence without the assistance of the respondent and note respondent's
160 unwillingness or inability to cooperate in the record of the inquiry. The University
161 Research Integrity Officer will maintain all laboratory notebooks, computer files, and
162 other materials in a secure environment for the duration of the process. The University
163 | Research Integrity Officer will make copies of this the potential evidence on written
164 request so that, if appropriate and possible, the respondent's scholarship and research
165 may continue. The University Research Integrity Officer will work with the respondent
166 to ensure the evidence is preserved for the protection of all parties.

167

168 *Allegations of Misconduct*

169

170 Anyone having reason to believe that a person subject to this Policy has engaged in
171 misconduct in research or creative endeavor should make a detailed, written report to the

172 Research Integrity Officer. If a report of misconduct is made orally, the individual should
173 be asked to file a written report. If the report is made orally and the complainant does not
174 reduce it to writing, the Research Integrity Officer, if convinced of the seriousness of the
175 allegations, may prepare the written report. Upon review receipt of the written report
176 reasonably evidencing misconduct in research, the Research Integrity Officer must
177 ensure that all original research records and materials relevant to the allegation (as
178 specified above) are preserved and will notify the respondent and the Chair of the
179 University Committee on Ethics and Commitment (UCEC) of the alleged violation of
180 Policy. The Research Integrity Officer will instruct the Chair of UCEC to appoint a an
181 inquiry panel to conduct an inquiry consistent with the requirements of this Policy.

182

183 *Anonymous Allegations*

184

185 Members of the University community may contact the University Research Integrity
186 Officer at any time to ask questions about scholarly or research misconduct or complaint
187 procedures without disclosing their names and without filing an allegation. However,
188 because of the inherent difficulty in investigating and resolving allegations from
189 unknown persons, individuals are discouraged from making anonymous allegations about
190 scholarly and research misconduct.

191

192 The University will respond reasonably to all allegations of scholarly and research
193 misconduct. In order to determine the appropriate response to an anonymous allegation,
194 however, the University will weigh the following factors:

195

- 196 1. The source, specificity and nature of the information provided;
- 197 2. The seriousness of the alleged conduct;
- 198 3. The objectivity and credibility of the source of the report;
- 199 4. Whether any individuals can be identified who were privy to the alleged misconduct;
- 200 and
- 201 5. Whether those individuals are willing to pursue the matter.

202

203 If based upon these factors it is reasonable for the University to investigate the matter,
204 the University Research Integrity Officer will instruct UCEC to conduct an inquiry and
205 pursue an investigation to address the anonymous substantiated allegations.

206

207 *UCEC Inquiry*

208

209 The inquiry will consist of information gathering and fact finding to determine whether
210 an allegation of misconduct warrants an investigation. The Chair of UCEC will appoint a
211 panel composed of two members of UCEC and one faculty member from the general
212 faculty having expertise in a discipline relevant to the inquiry and who has neither a real
213 nor an apparent conflict of interest to conduct the inquiry. In the event a panel member
214 has a conflict of interest, the Chair of UCEC will excuse that member from the panel and
215 appoint a substitute. In the event that sufficient members of UCEC are not available

216 either because of a conflict of interest or any other reason, the Chair, in consultation with
217 the Research Integrity Officer, may appoint *ad hoc* members from the general faculty for
218 purposes of conducting the ~~specific~~ inquiry.

219
220 Throughout the inquiry, UCEC will protect, to the maximum extent possible, the privacy
221 of the individuals involved, including specifically the respondent and those who, in good
222 faith, reported the alleged misconduct. The inquiry will ordinarily include interviews
223 with the complainant, the respondent and any other persons possessing relevant
224 information. The inquiry panel should also review any supporting documentation.

225
226 An inquiry must be completed within 60 days of its initiation unless circumstances
227 clearly warrant a longer period. Should it be necessary to extend the period for the
228 inquiry beyond 60 calendar days after the initiation of the inquiry, UCEC must request an
229 extension from the Research Integrity Officer. Extensions may only be granted for good
230 cause, and the Research Integrity Officer must document the reasons for exceeding the
231 60 day period.

232
233 A written report of the inquiry will be prepared by the UCEC panel that describes the
234 evidence that was reviewed, summarizes relevant interviews and includes the conclusions
235 of the inquiry. It will contain an assessment of whether there is sufficient evidence to
236 warrant a formal investigation. After receiving a copy of the report, the respondent will
237 be provided an opportunity to comment on the report, and any such comment will
238 become part of the record. The report of the inquiry, along with any comments on the
239 report, will be forwarded to the Research Integrity Officer.

240
241 If the inquiry provides sufficient evidence, in the judgment of UCEC, to warrant a formal
242 investigation, or if the Research Integrity Officer determines that Federal regulations
243 require, the Research Integrity Officer will refer the report to the *ad hoc* University
244 Investigative Committee. If the judgment of the Research Integrity Officer and UCEC,
245 based on the inquiry report, is that the charge does not warrant an investigation, any
246 reference to the charge in any University file of any individual involved will be removed
247 promptly. All materials relating to the charge and the determination will be sent to the
248 Research Integrity Officer, who will be responsible for their security. Such records will
249 be maintained for at least three years. In the case of allegations not amounting to
250 scientific misconduct but requiring further investigation, UCEC may request that the
251 Research Integrity Officer refer the allegations to the appropriate University committee.

252
253 *Notifications*

254
255 Within 10 days of receiving the inquiry report from UCEC indicating that there is reason
256 to believe misconduct occurred, the Research Integrity Officer will notify the respondent,
257 complainant, President, Provost, Vice President for Research, and the Dean of the college
258 in which the respondent holds his/her primary appointment that an investigation will be
259 initiated.

260

261 *Investigation*

262

263 *Ad hoc University Investigative Committee*

264

265 The *ad hoc University Investigative Committee* will consist of at least 5 faculty members
266 who are, in the judgment of the Research Integrity Officer, without conflict of interest
267 and who have appropriate expertise to carry out a thorough and authoritative evaluation
268 of the relevant evidence. One individual will be appointed by the Provost and will be a
269 faculty member who is familiar with or trained in the research or scholarly discipline and
270 familiar with or trained in the ethical and financial rules applicable to the particular
271 research, scholarly work, and other creative endeavors covered in the allegation. This
272 individual will serve as chair of the committee. Two other individuals will be chosen by
273 the Chair of the Faculty Senate from the voting membership of the University of Arizona
274 general faculty without conflict of interest and who have appropriate expertise to carry
275 out a thorough and authoritative evaluation of the relevant evidence.

276

277 After consultation with the committee members, the Chair of the *ad hoc Investigative*
278 *Committee* will select two additional committee members who are without conflict of
279 interest and have appropriate expertise to carry out a thorough and authoritative
280 evaluation of the relevant evidence. Generally, the two additional members will also be
281 members of the general faculty of the University of Arizona or from another university
282 under the Arizona Board of Regents (ABOR). In unusual circumstances, external
283 scholars or persons with expertise in other areas may be included on the committee
284 where warranted by the nature of the field or allegations. The committee may also seek
285 additional consultation from individuals outside of the ABOR system who have
286 demonstrated expertise in the discipline or area of research or scholarship that is the
287 subject of the investigation.

288

289 No faculty member should serve on the committee if he or she has a conflict of interest.
290 In addition, the respondent may request that a committee member recuse himself or
291 herself if the respondent proves or determines believes the individual has a conflict of
292 interest. The Research Integrity Officer will make the final decision related to a faculty
293 member's participation. A conflict of interest means the real or apparent interference of
294 one person's interest with the interests of another person, where potential bias may occur
295 due to prior or existing personal, professional or financial relationships. Generally,
296 differences of professional opinion held in good faith and without prospect of financial
297 gain should not be construed as conflicts of interest.

298

299 The *ad hoc University Investigative Committee* will begin a formal investigation within
300 30 days of the completion of the UCEC inquiry. An investigation is the examination and
301 evaluation of all the evidence to determine whether misconduct has occurred, by whom,
302 and to what extent. The investigation also will determine whether there are additional
303 instances of possible misconduct that would justify broadening the scope of the

304 investigation beyond the original allegations. An investigation including completion of
305 the report should ordinarily be completed within 120 days of its initiation (i.e., the first
306 meeting). Exceptions require the approval of the Research Integrity Officer and the
307 concurrence of any sponsoring agency. The Research Integrity Officer will secure any
308 additional pertinent records that were not previously preserved during the inquiry. The
309 Research Integrity Officer will take any additional appropriate steps to notify sponsors of
310 the initiation of the investigation in accordance with applicable law and regulations. The
311 Research Integrity Officer may request the Vice President for Research or Provost, as
312 appropriate, to take interim administrative actions including but not limited to the
313 suspension of the individual accused from further participation in the research project in
314 question if the Research Integrity Officer determines that ~~serious~~ harm to the individual
315 or others would be threatened by the individual's continuance of his or her duties. Any
316 such suspension will not interrupt payment of salary.

317

318 *Conduct of Investigation*

319

320 Upon receiving the allegation(s) of misconduct and the report of UCEC from the
321 Research Integrity Officer, the *ad hoc* Investigative Committee will promptly commence
322 the investigation. The scope of the investigation will be determined by the committee at
323 its discretion according to the allegations, the evidence, and the facts. The committee will
324 consider only such evidence that it receives and will use its judgment in deciding what
325 evidence presented is fair and reliable, and in doing so, it is not bound by the rules of
326 evidence.

327

328 The committee may interview either by written questions or in person individuals who
329 have or are believed to have information germane to the investigation. The committee
330 will have the right of access to any University document or record, however preserved,
331 and by whomever held. The committee will have the power to require the preservation
332 of any University record or tangible object. This includes computers, computer programs
333 and the contents of computers belonging to, leased by or under the control or jurisdiction
334 of, the University wherever located.

335

336 The *ad hoc* University Investigative Committee chair will establish a schedule for the
337 conduct of the investigation. It is the responsibility of all parties to make themselves
338 available according to the committee's schedule. The committee will have the power to
339 require the attendance and seek the testimony of any University employee except the
340 respondent. If the respondent chooses not to make himself or herself available, the
341 committee may proceed in his or her absence.

342

343 Early in the course of the investigation the committee should discuss the matter in
344 confidence with the respondent and with all persons with whom he or she has
345 collaborated in relation to the work under review. During the formal investigation, every
346 reasonable effort will be made to protect the identity of the respondent(s) and the
347 complainant(s) from third parties. However, at this stage the respondent should normally

347 be informed of the identity of all witnesses called before the committee but must not
348 contact or harass any witness at any time.

349

350 The respondent must be given the opportunity to appear before the committee and to
351 suggest other witnesses for the committee to interview. The respondent may be
352 accompanied by legal counsel at his/her own expense to advise the respondent during any
353 appearance before or interactions with the committee. If the respondent brings legal
354 counsel for advice, the committee also may have University counsel present to advise it
355 during the meetings with respondent. The committee will not conduct formal hearings,
356 but will confine its activities to gathering evidence to include in its report to the
357 University Research Integrity Officer.

358

359 On its own initiative or at the request of the respondent, the committee will accept
360 documents or other evidence which the respondent believes to be favorable to his or her
361 defense. If the respondent requests an interview with the Investigative Committee, it
362 must provide an opportunity for the interview.

363

364 Throughout the investigation, the committee will protect, to the maximum extent
365 possible, the privacy of the individuals involved, including specifically the respondent
366 and those who, in good faith, reported the alleged misconduct.

367

368 *Record of the Investigation*

369

370 A written transcript or an audiotape will be kept of all committee meetings. Upon
371 request, a copy of the transcript will be provided to the respondent at the University's
372 expense. The committee will make and keep accurate and complete records, including
373 transcripts or audiotapes of all interviews, original or legible and complete photocopies
374 of all documents or records including where and how obtained. The Research Integrity
375 Officer will preserve the evidence of each investigation in such a manner that it is not
376 subject to unauthorized use or tampering until such time as it is no longer needed and for
377 a minimum of three years.

378

379 *Report of Investigation*

380

381 At the conclusion of its investigation, the ad hoc University Investigation Committee
382 will prepare a written report indicating the process of investigation, findings, conclusions
383 and recommendations for an appropriate course of action. The report will specifically
384 state whether or not misconduct has occurred in violation of this Policy and with respect
385 to each allegation, the facts and reasons for each of the findings and conclusions or
386 additional findings.

387

388 The report may include recommendations of sanctions the committee finds appropriate
389 and will include adequate steps to meet the University's obligations, if any, to third
390 parties affected by the violation.

391

392 A preliminary copy of the report will be provided to the respondent who will be provided
393 an opportunity to respond orally, or in writing, before final recommendations are made.
394 To the extent he or she can be identified, the person(s) who made the allegations should
395 be provided with those portions of the report that address his or her role and opinions in
396 the investigation.

397

398 The committee will send its final report, including any written comments on the
399 preliminary report received from the respondent or complainant to the Research Integrity
400 Officer for transmission to the Vice President for Research and the Provost.

401

402 *Resolution and Outcome*

403

404 The Provost will consider the committee's recommendations and, in consultation with
405 the Vice President for Research, produce a written decision as promptly as possible
406 addressed to the respondent which will accept, reject or modify all or any part of the
407 committee report, conclusions and recommendations as is warranted by the evidence.
408 The Provost will report to the President the full account of the investigation and the basis
409 of the Provost's decision. The Provost's decision, together with the Investigative
410 Committee's report, will be transmitted to Office of Research Integrity or appropriate
411 agency (i.e. Attorney General's Office).

412

413 In the event that the Provost concurs that misconduct has occurred in violation of this
414 Policy, the Provost will take all appropriate steps after determining whether to notify law
415 enforcement agencies or other parties affected of the outcome of the case. The Provost
416 will impose sanctions, up to and including termination, as appropriate.

417

418 In the case of a Policy violation, the Provost's report to the President will include
419 information on the steps taken, if any, to notify affected parties. To the extent any
420 disciplinary action is imposed, that portion of the decision will proceed in accordance
421 with established University policies and procedures on such matters for faculty,
422 professional or classified staff, as is appropriate.

423

424 The University, including the Research Integrity Officer, Vice President for Research
425 and the Provost will undertake diligent efforts, as appropriate, to restore the reputations
426 of persons alleged to have engaged in misconduct in research when allegations are not
427 confirmed and also undertake diligent efforts to protect the positions and reputations of
428 those persons who, in good faith, made the allegations. Those making disclosures of
429 misconduct in research in good faith are entitled to protection from retaliation, even if
430 the allegation is determined to be unfounded.

431

432 Appeals of decisions of the Provost will be handled through existing grievance
433 procedures in place at the University.

434

435 ***Informal Resolution***

436

437 If at any time during the investigatory process the *ad hoc* committee and the respondent
438 determine that the charges may be resolved in a manner satisfactory to the University,
439 any sponsor of the research, and the respondent, the committee may enter into an
440 appropriate agreement subject to the approval of the Research Integrity Officer and the
441 Provost and subject to any required approval of the Office of Research Integrity or other
442 appropriate agency. In such instances, the resolution must address the interests of all
443 affected parties.

444

445 ***Legal Advice for Committees***

446

447 The General Counsel or designee will advise the inquiry and investigating committees on
448 procedural matters. In exceptional circumstances, counsel from another University or
449 outside counsel may be designated ~~by the General Counsel~~ to provide advice to the
450 UCEC Inquiry Committee or to the *ad hoc* University Investigation Committee based on
451 the recommendation of either the chair of the committee or the Research Integrity
452 Officer.

453

454 ***Further Administrative Action***

455

456 Once the University process has concluded, further administrative action may be taken
457 by a federal agency. Any such action may or may not be based upon the
458 University investigation and findings and is beyond the purview of the University.
459 However, it is the University policy that generally all employees will cooperate in such
460 agency inquiries.

Professor Spece's suggested modifications to the Scholarly and Scientific Integrity Policy

A. Suggested change: Page one, line 7, after "activities." add: It also has an obligation to respect the rights of researchers, whose important work can be impeded by false allegations and whose careers can be destroyed by findings of research misconduct."

Rationale: "Tell it like it is." The severe effects on researchers are indisputable. The need for a policy, aside from complying with federal regulations, is very "iffy."

B. Suggested change: Page one, line 17, after "endeavors" add: "-indeed, all activities in the course and scope of employment--"

Rationale: This would hold those who seek to prosecute a researcher to the same high standards the researcher is being held to.

C. Suggested change: Page two, line 51, after "supervise." and line 55 after "University." delete "." and add: ", consistent with reasonable standards of their field of endeavor."

Rationale: Different reasonable practices are used in different fields. For example, clinical researchers have clinical as well as research responsibilities and they can be involved in very massive clinical studies. In that context, they cannot "redo" or "check" every activity of every person they supervise. On the other hand, some checking might be expected of a researcher in a basic science who is supervising one research assistant.

D. Suggested change: Page two, line 84, after "misconduct." delete "." and add ", consistent with the Fourth Amendment to the United States Constitution."

Rationale: Not all "searches and seizures" are reasonable or legal. For example, what if a University official demanded to accompany a researcher to his or her office or home and there search "all files and documents"?

E. Suggested change: Page 3, line 112, after "evidence." add: "If the sanction to be applied is a fine, suspension, or dismissal, the allegation must be proven by clear and convincing evidence."

Rationale: This is consistent with our recent action on our grievance policies generally. It is also mandated by the United States Constitution and allowed by both the existing and future (effective December 6, 2001) federal policies. It also simply fair, given the importance of tenure and academic freedom and the severe impacts on those found guilty.

F. Suggested change: Page 3, line 116, delete up to "and" and replace with: "The President,"

Rationale: A conflict of interest is created when the Vice President for Research is given the power to appoint the RIO. There are too many chances for conflict between researchers and their Vice President. These conflicts can affect the decisions of any Vice President for Research.

G. Suggested change: Page 4, line 164, after "continue." add: "It shall be presume that the researcher's research may continue, and it shall be halted only if there is an imminent threat of serious harm to persons or property and there are no less restrictive ways to obviate such danger."

Rationale: Research is First Amendment activity and it should be halted only upon a showing of imminent threat of serious harm to persons or property that cannot be prevented by less restrictive alternatives."

H. Suggested change: Page 5, line 175, after "report." add: "If so, the RIO shall tape record the oral report."

Rationale: There is no reason not to keep this inexpensive record of the supposed serious allegation of misconduct.

I. Suggested change: Page 5, lines 183-205, delete.

Rationale: There is neither need nor justification for anonymous allegations.

J. Suggested change: Page 6, line 218, after "inquiry." add: "These persons shall not hold any administrative position."

Rationale: Having administrators as ad hoc members makes the panel seem less than totally objective.

K. Suggested change: Page 7, lines 277-278, delete "the Chair of the ad hoc Investigative Committee" and replace with: "the three existing members of the Committee."

Rationale: The present system allows the administration to control a majority of the members of the Committee. There is absolutely no reason for this.

L. Suggested change: Page 6, end of line 224, add: "The respondent shall have a full opportunity to confront and cross-examine all witnesses."

Rationale: The momentum for conviction is immense once an inquiry proceeds to an investigation. There is too much room for error and manipulation if the respondent is not given a chance to confront and question each and every witness.

M. Suggested change: Page 11, lines 447-452 delete and replace with: "The inquiry and investigating committees shall be advised, if they desire, by independent counsel paid for by the University."

Rationale: The General Counsel has a conflict of interest because it is the institution that is prosecuting the individual, and the General Counsel's allegiance is to the institution, and, more particularly, to the administration of the institution.

Proposed Resolution

Proposed by Senator John Warnock; seconded: Senator Hogle

Whereas:

Dick Tomey recently completed 14 years as the Head Coach of the University of Arizona football team;

In those 14 years, he brought the team to national prominence and had the second-most wins among the PAC-10 teams;

He achieved this on the field while running a program that was known throughout the country for being clean;

During his tenure, his players graduated at a rate 15% higher than that of the student body, the highest differential in the PAC-10;

In those 14 years, he kept his primary focus on the welfare and development of his student-athletes, against public pressures that would have had him locate that focus elsewhere;

Resolved

We wish to express our gratitude.

Amendment to the Warnock Resolution (item 7; April 2, 2001)

Add the following at the end of WHEREAS section:

Every faculty member who has completed service at the University and has served the best interests of the University;

Every staff member who has completed service at the University and has served the best interests of the University,

Add the following at the end of the RESOLVED section:

We wish to express our gratitude to every employee of the University who has served the University upon leaving the University for any reason. The expression of gratitude shall take place by reading the names of appropriate faculty and staff during the faculty senate meeting nearest the time that these individuals leave University service.