

SENATE ACTION FORM

No. 1203

Subject: RSCW Misconduct Policy Revisions

Reference to Senate Minutes dated: 01/19/2021

Senate Action:

MOTION: Welfare – It is moved to approve the revised RSCW Misconduct policy as presented.

VOTE: Approved by voice vote.

Response request

_____ None (sent as information item)

X Other action requested/comments: **Administrative review and Presidential approval requested.**

Faculty Senate Chair 01/26/2021
Date

* * * * *

Administrative review of Senate action (unnecessary for information items):

_____ Reviewed by **VPAA/Provost**. Check _____ if comments attached

_____ Reviewed by **General Counsel**. Check _____ if comments attached

Presidential action:

_____ Approve _____ Reject _____ Return to Senate for discussion/modification (comments attached)

President/Designated Administrative Officer Date

Date of Board approval (if applicable): not applicable

Attachment to Senate Action #1203
Approved by the Faculty Senate
01/19/2021

Revisions to 3-8-102

See highlights and strikethroughs for additions and deletions.

3-8-102 Research, Scholarship, and Creative Works (RSCW) Misconduct Policy.

3-8-102(1) Definitions. For purposes of this policy, the following terms are defined as stated below.

- (a) **"Academic Researcher."** Any person (paid or non-paid) affiliated with the University conducting or collaborating in University Sponsored Research.
- (b) **"Respondent(s)."** Any individual(s) accused of misconduct under this policy.
- (c) **"Complainant(s)."** Any individual(s) who make(s) an allegation of misconduct under this policy.
- (d) **"University Sponsored Research."** Research, Scholarship, Creative Works (RSCW), or consulting which is conducted by an Academic Researcher in the name of or under the auspices of the University or which is supported by University resources or facilities.
- (e) **"Conflict of Interest."** Any pecuniary interest or organizational affiliation held by an Academic Researcher and/or Research Integrity Officer which prohibits or precludes or is reasonably likely to prohibit or preclude the Academic Researcher from exercising independent judgement in the conduct of University Sponsored Research.
- (f) **"Research, Scholarship, and Creative Works Misconduct (RSCW Misconduct)."** Any action of an Academic Researcher in the conduct of University Sponsored Research **that** **which** constitutes:
 - ~~(1)~~(i) willful, negligent or reckless practice in proposing, reviewing, or conducting RSCW, or in reporting or presenting the results of .3 (u)-0.8 (l)-3 .004 23.3 (s)-4.3inginct g

(iii) governmental officials as required by law, regulations or contract.

Knowledge of the allegation, inquiry, investigation and/or its details shall be limited to University officials (such as the Department Chair/School Director/Program Area

- (c) At the time an inquiry is initiated, the RIO must notify in writing the Respondent(s), if known, who is/are alleged to have violated this policy and the Respondent's Department Chair/School Director/Program Area Coordinator, academic dean and the DO that an inquiry has been initiated. If the inquiry subsequently identifies an additional Respondent(s), written notifications must be made as described in the immediate preceding sentence.
- (d) The RIO or their his/her designee must make reasonable efforts to obtain information in the care, custody or control of the University not privileged as a matter of law that is needed to conduct the inquiry. The RIO or their his/her designee shall interview the Complainant(s), the Respondent(s), and person(s) believed to have information relevant to the inquiry, and review relevant documents and materials, prior to concluding the inquiry.
- (e) The inquiry shall be completed no later than sixty (60) calendar days after the allegations of RSCW Misconduct are filed unless the RIO determines that, despite diligent efforts, the inquiry cannot properly be concluded during that time, in which case, the time limit shall be extended for no more than thirty (30) additional calendar days.
- (f) Upon completion of the inquiry, a written inquiry report shall be prepared and signed by the RIO which shall summarize the allegations, specify the findings made and conclusions reached, and state whether there is sufficient evidence that supports the reasonable conclusion that a violation(s) of this policy by the Respondent(s) has occurred.
- (g) The RIO will transmit the written inquiry report to the Respondent(s) and indicate that the report will be transmitted to the DO fifteen (15) calendar days after it is transmitted to the Respondent(s). If the Respondent(s) wish(es) to respond to the RIO's report, they must submit their response to the RIO (n)2.3 (s)-1.3we1-3.2 ondent (n)5.3 O (n)2.3 (s)-1.39 (b)4.2 (t)-3 7h

- (j) If the DO determines that an investigation is warranted, the RIO will send a copy of the DO's decision and the written inquiry report to any funding agencies that supported the Respondent(s)' University Sponsored Research and/or other agencies as required by law, regulations or contract. Funding agencies, and/or other agencies, shall also be notified if the Respondent(s) have admitted that RSCW Misconduct has occurred, or for any reason other than a determination by the DO that an investigation is not warranted. Other agency notification requirements may apply at this or other stages within this policy. All pertinent regulations and/or contracts should be consulted. It is the responsibility of the RIO to meet compliance regarding agency notification.

3-8-102(6) Investigation. If, as a result of the inquiry, it is determined that an investigation is warranted, the investigation shall be conducted as follows:

- (a) The RIO shall, in consultation with the chair of the Faculty Senate and other University officials as appropriate under the circumstances presented by the allegations, appoint a committee to conduct the investigation of the allegations (Investigatory Committee (IC)). The IC shall consist of individuals who do not have unresolved personal, professional, or financial **C**onflicts of **I**nterest with those involved with the

- (e) The IC may engage in any reasonable fact finding processes which it deems appropriate in order to gather evidence relevant to the matter(s) under investigation, including without limitation, a fact-finding hearing at which witnesses may appear in person or through written statements, as the IC may deem appropriate. At any fact-finding hearing, members of the IC shall be allowed to question witnesses who appear in person and the Respondent(s) shall be allowed to ask questions of such witnesses within reasonable limitations established by the IC.
- (f) Prior to any appearance by the Respondent(s), the IC shall disclose, no less than ten (10) calendar days in advance, the issues or charges under investigation, the evidence which has been gathered by the IC which is relevant to the issues or charges, and the nature of the further investigation to be conducted through the fact-finding hearing.
- (g) In addition to review of the information gathered pursuant to Section 3-8-102(5)(d), interviews should be conducted of the Complainant(s) and Respondent(s), as well as other individuals who may have information relevant to the investigation. Summaries of all interviews should be included, with all other documents gathered, in the file maintained by the IC.
- (h) The IC may, in its discretion, obtain the assistance of experts in the field of research under investigation or in other areas as deemed relevant to the investigation.
- (i) The IC shall complete its investigation and issue a written report no later than one

- (1)(A) Identify the Respondent(s) responsible for the RSCW Misconduct; Identify whether the RSCW Misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
- (2)(B) Identify whether the RSCW Misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard; Describe and document the external support, including, e.g., any grant numbers, grant applications, contracts, and publication listing external support;
- (3)(C) Describe and document the external support, including, e.g., any grant numbers, grant applications, contracts, and publication listing external support; and Identify any publications and/or other RSCW dissemination that the IC has concluded need correction or retraction; and
- (4)(D) Identify any publications and/or other RSCW dissemination that the IC has concluded need correction or retraction. Identify the Respondent(s) responsible for the RSCW Misconduct.

- (k) The Respondent(s) shall receive, via Registered Mail, the initial report of the IC and shall be given fifteen (15) calendar days from the date of receipt to respond to the report, if they wish to do so. At the end of the fifteen (15) calendar days period, the initial report, with any response by the Respondent(s) will be filed with the DO.
- (l) The DO, within thirty (30) calendar days of receipt of the initial report and any Respondent(s) response, will communicate, in writing, to the Respondent(s), Complainant(s), the IC Chair, the Department Chair/School Director/Program Area Coordinator and the dean(s) of the college(s) of the Respondent(s), and the RIO, the final decision of the DO of whether or not RSCW Misconduct has occurred and the University actions to be taken.
- (m) The RIO shall send the DO's final decision, including the IC's initial report and any response(s) of the Respondent(s) to any funding agencies that supported the Academic Researcher's University Sponsored Research as required by law, regulations or contract.

3-8-102(7) Discipline. Any University policy to the contrary notwithstanding, violation of the policy shall be cause for discipline, and sanctions of written and oral reprimand, prohibition from involvement in any University Sponsored Research, temporarily or permanently, suspension or dismissal as well as any other sanctions allowed by University policies or regulations or applicable law. Disciplinary proceedings shall be governed by established University procedures.

3-8-102(8) Retention of Records. All reports and all records gathered regarding any allegations,

3-8-102(9) Further Reporting. If at any time during any proceedings hereunder it is determined that criminal activity may have occurred or that federal funds are in jeopardy of loss or misappropriation, immediate notice shall be given to any federal funding agency which has provided the funds and to appropriate law enforcement agencies. In such instance, the RIO shall take appropriate action to sequester such funds to prevent their loss or misappropriation.

Clean Copy version below.

3-8-102 Research, Scholarship, and Creative Works (RSCW) Misconduct Policy.

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- (a) Academic Researcher. Any person (paid or non-paid) affiliated with the University conducting or collaborating in University Sponsored Research.
- (b) Respondent(s). Any individual(s) accused of misconduct under this policy.
- (c) Complainant(s). Any individual(s) who make(s) an allegation of misconduct under this policy.
- (d) University Sponsored Research. Research, Scholarship, Creative Works (RSCW), or consulting which is conducted by an Academic Researcher in the name of or under the auspices of the University or which is supported by University resources or facilities.
- (e) Conflict of Interest. Any pecuniary interest or organizational affiliation held by an Academic Researcher and/or Research Integrity Officer which prohibits or precludes or is reasonably likely to prohibit or preclude the Academic Researcher from exercising independent judgement in the conduct of University Sponsored Research.
- (f) Research, Scholarship, and Creative Works Misconduct (RSCW Misconduct). Any action of an Academic Researcher in the conduct of University Sponsored Research that constitutes:
 - (i) willful, negligent or reckless practice in proposing, reviewing, or conducting RSCW, or in reporting or presenting the results of such RSCW, including without limitation, falsification, fabrication, or plagiarism; or misrepresentation or falsification of credentials, sponsorships, approvals or certifications;
 - (ii) material violation of applicable laws, regulations or procedures;
 - (iii) material violation of applicable ethical or professional standards of the

Sponsored Research and/or in which the student is pursuing educational credentials;

(iv) willful, grossly negligent or reckless misappropriation or misapplication of research funds (excepting minor deviations in

(ii) officials of the University with a need to know or who are authorized by the DO,
and/or

- (c) At the time an inquiry is initiated, the RIO must notify in writing the Respondent(s), if known, who is/are alleged to have violated this policy and the Respondent's Department Chair/School Director/Program Area Coordinator, academic dean and the DO that an inquiry has been initiated. If the inquiry subsequently identifies an additional Respondent(s), written notifications must be made as described in the preceding sentence.
- (d) The RIO or their designee must make reasonable efforts to obtain information in the care, custody or control of the University not privileged as a matter of law that is needed to conduct the inquiry. The RIO or their designee shall interview the Complainant(s), the Respondent(s), and person(s) believed to have information relevant to the inquiry, and review relevant documents and materials, prior to concluding the inquiry.
- (e) The inquiry shall be completed no later than sixty (60) calendar days after the allegations of RSCW Misconduct are filed unless the RIO determines that, despite diligent efforts, the inquiry cannot properly be concluded during that time, in which case, the time limit shall be extended for no more than thirty (30) additional calendar days.
- (f) Upon completion of the inquiry, a written inquiry report shall be prepared and signed by the RIO which shall summarize the allegations, specify the findings made and conclusions reached, and state whether there is sufficient evidence that supports the reasonable conclusion that a violation(s) of this policy by the Respondent(s) has occurred.
- (g) The RIO will transmit the written inquiry report to the Respondent(s) and indicate that the report will be transmitted to the DO fifteen (15) calendar days after it is transmitted to the Respondent(s). If the Respondent(s) wish(es) to respond to the RIO's report, they must submit their response to the RIO within fifteen (15) calendar days from the transmission of the written inquiry report. The RIO will transmit the inquiry report to the DO together with any response(s) from the Respondent(s) received by the RIO within the period stated above.
- (h) The DO will review the written inquiry report and any response(s) by the Respondent(s) and determine whether an investigation is warranted. Any finding that an investigation is warranted must be made in writing by the DO to the RIO and the Respondent(s).
- (i) The outcome of the inquiry, the DO's written decision, and a copy of the written inquiry report shall be sent "Confidential" to the last known home address(es) of the Respondent(s) by certified mail, return receipt requested. The RIO will inform the Department Chair/School Director/Program Area Coordinator and the dean(s) of the college(s) of the Respondent(s) whether an investigation will be initiated under this policy.

- (j) If the DO determines that an investigation is warranted, the RIO will send a copy of the DO's decision and the written inquiry report to any funding agencies that supported the Respondent(s)' University Sponsored Research and/or other agencies as required by law, regulations or contract. Funding agencies, and/or other agencies, shall also be notified if the Respondent(s) have admitted that RSCW Misconduct has occurred, or for any reason other than a determination by the DO that an investigation is not warranted. Other agency notification requirements may apply at this or other stages within this policy. All pertinent regulations and/or contracts should be consulted. It is the responsibility of the RIO to meet compliance regarding agency notification.

3-8-102(6) Investigation. If, as a result of the inquiry, it is determined that an investigation is warranted, the investigation shall be conducted as follows:

- (a) The RIO shall, in consultation with the chair of the Faculty Senate and other University officials as appropriate under the circumstances presented by the allegations, appoint a committee to conduct the investigation of the allegations (Investigatory Committee (IC)). The IC shall consist of individuals who do not have unresolved personal, professional, or financial Conflicts of Interest with those involved with the investigation and shall be composed of a minimum of three (3) individuals who have expertise relevant to the allegations under investigation and who are tenured University faculty members. The RIO shall select the chairperson of the committee.
- (b) Upon the appointment of the IC, the RIO shall notify in writing the Respondent(s) of the allegations that will be investigated.
- (c) No later than thirty (30) calendar days after the DO's determination that an investigation is warranted, the RIO shall convene the first meeting of the IC to review the written inquiry report, the DO's determination, the information gathered pursuant to Section 3-8-102(5)(d), and the procedures for the conduct of the investigation, including the confidentiality requirements, and the development of a plan by which the investigation will be conducted. Once these matters are completed, the appointed Chair of the IC shall assume the responsibility for conducting the investigation. The RIO is responsible for overseeing the investigative process and ensuring compliance of all parties with this policy in the conduct of the investigation, but shall not participate as a member of the IC. The IC Chair shall keep the RIO informed of the progress of the committee. The RIO shall provide administrative support to the IC throughout the investigation.
- (d) The IC shall have the authority to review all records and evidence needed to conduct the misconduct proceedings not privileged as a matter of law and may interview or require the attendance of any University employee or agent to provide testimony at any hearing conducted by the IC, unless on matters that are privileged as a matter of law.

(e) The IC

- (B) Identify whether the RSCW Misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
 - (C) Describe and document the external support, including, e.g., any grant numbers, grant applications, contracts, and publication listing external support; and
 - (D) Identify any publications and/or other RSCW dissemination that the IC has concluded need correction or retraction.
- (k) The Respondent(s) shall receive, via Registered Mail, the initial report of the IC and shall be given fifteen (15) calendar days from the date of receipt to respond to the report, if they wish to do so. At the end of the fifteen (15) calendar days period, the initial report, with any response by the Respondent(s) will be filed with the DO.
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