

UNIVERSITY OF MASSACHUSETTS LOWELL POLICY AND PROCEDURES RELATING TO FACULTY MISCONDUCT IN RESEARCH AND SCHOLARLY ACTIVITIES*

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I. Statement of Principles: It is the policy of the University of Massachusetts Lowell to require high ethical standards of faculty, administrators, staff and all other persons affiliated with the university in research and scholarly activities. It is the responsibility of the university to inquire into and, if necessary, investigate and resolve all instances of alleged misconduct in research or scholarly activities and to comply in a timely manner with outside agency requirements for reporting cases of possible misconduct in research or scholarly activities. These guidelines set forth the procedures for dealing with instances of alleged misconduct in all research and scholarly activities whether such activities are funded or not.

II. Definitions:

As used herein:

- (1) “Provost” means the Provost or designee.
- (2) “Days” means academic calendar days and excludes Saturdays, Sundays, legal holidays and days upon which the university classes are not in session or are cancelled due to inclement weather or other unexpected circumstance.
- (3) “Dean” means the Dean(s) for the college(s) in which the faculty member, administrator, staff or other personnel works, teaches or researches.
- (4) “Research and Scholarly Activity” is to be broadly construed to include all activities of all faculty, personnel, administrators and others in the university and academic community on official duty involving research, scholarship and creative activities, such as those involved in laboratory research, field work, observational studies, experimentation, research and scholarship in the humanities and arts. Research and scholarly activity includes the presentation or publication of research results or scholarship, the process of applying for funds and the expenditure or fiscal reporting on the use of project funds.
- (5) “Research and Scholarly Misconduct” is the misrepresentation of the procedures and/or outcomes of research or scholarly activities and includes fabrication, falsification, plagiarism, unsafe practices, failure to comply with regulations, misuse of funds, or other activities that seriously deviate from those that are commonly accepted within the university and/or academic

* These procedures received the support of the majority of the Faculty Senate at its meeting held on May 6, 2013. These procedures implement the Board of Trustees’ Policy T08-010 *Policy on Responsible Conduct of Research and Scholarly Activities* (June 12, 2008) and were approved by the Office of the President on June 26, 2013.

community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretation or judgments of data. Scholarly and/or Research misconduct includes, but is not limited to, the following activities:

- (a). Falsification of data: Data falsification may range from the fabrication of data to selective reporting of data. Falsification covers the omission of data as well as the modification of data.
 - (b). Plagiarism: This form of misconduct consists of any attempt to receive credit for the work of another, including taking credit for someone else's work, ideas, or methods, copying the writing of others without proper acknowledgment or otherwise taking credit falsely.
 - (c). Abuse of confidentiality: This form of misconduct includes the use or release of information given to one under the understanding of confidentiality. Examples include taking ideas from documents to which access was given under rules of confidentiality such as in the reviewing of grant proposals, award applications, manuscripts submitted for publication, scholarly prizes or journals.
 - (d). Violations of rules and regulations concerning the conduct of research: This form of misconduct includes violations of federal, state or local governmental regulations, or university regulations dealing with protection of human subjects, use of dangerous or hazardous substances, improper use of recombinant DNA, and careless handling of radioactive materials.
 - (e). Misrepresentations in publication: This form of misconduct involves the publishing or public circulation of material intended to mislead the readers. Examples include misrepresenting data (particularly its origins) or adding or deleting the names of other authors without the latter's consent.
 - (f). Violations of research-related property rights: This form of misconduct includes the deliberate taking or destroying the research related property of others, such as data, research papers, notebooks, equipment, or supplies.
- (6) "Vice Provost for Research" means the Vice Provost for Research or designee.

III. STANDING COMMITTEE ON CONDUCT IN RESEARCH AND SCHOLARLY ACTIVITY:

To deal with cases involving possible misconduct in research or scholarly activities, the Provost will appoint, on an annual basis, a Standing Committee on Conduct in Research and Scholarly Activities (SCC) which committee shall consist of up to six individuals, including at least four tenured faculty members and one university administrator. The Committee shall serve as an advisory panel to the Provost on general and specific matters relating to misconduct in research and scholarly activities. This committee shall be chaired by the Vice Provost for Research. All procedures and guidelines adopted by the SCC are subject to review and approval by the Provost.

IV. PROCESS:

A. The Initial Inquiry Committee and the Initial Allegation:

1. **Initial Allegation:** Any member of the University community who becomes aware of an apparent instance of misconduct in research or scholarly activity has the responsibility to try to resolve the issue, if possible, in consultation with those directly involved. If consultation is inappropriate or unsuccessful, a person having good-faith belief that misconduct in research or

scholarly activity has occurred, or is occurring, should report the allegation(s) in writing to the Vice Provost for Research in the case of a faculty/research scientist or to the Dean in the case of other faculty or an administrator, staff or other personnel. To ensure timely investigation, any such report or allegation shall be made within 30 days following the discovery of an alleged violation unless the reporting party can show good reason for his or her delay in making such report. In all cases, the report of the alleged misconduct will be reported by the Vice Provost for Research or the Dean, as applicable, to the SCC for informational purpose only.

2. Appointment of Initial Inquiry Committee: Within fifteen (15) days from receipt of the report of alleged misconduct, the Provost shall appoint an Initial Inquiry Committee consisting of the Vice Provost for Research, the Dean and one tenured faculty member then currently serving on the SCC. At this time, the person whose conduct is in question shall be informed by the Provost in writing of the appointment of an Initial Inquiry Committee and the nature of the allegations.

3. Review of Allegations by the Initial Inquiry Committee: The Initial Inquiry Committee shall review the allegation and, within 20 days, make an initial determination as to whether the allegations raise a legitimate question of misconduct warranting further investigation.

4. Determination of the Initial Inquiry Committee:

(a) If the Initial Inquiry Committee determines that the allegations of misconduct warrant further investigation, it shall forward such determination to the Provost and the SCC. (b) If the Initial Inquiry Committee determines that the allegations of misconduct do not warrant further investigation, it shall forward such determination to the Provost and the SCC. All written records shall be sealed and deposited in the Office of the Provost and maintained in accordance with university policies and state and federal record retention mandates. Care shall be taken that nothing is entered in the personnel file of the person whose conduct had been in question.

5. Notification of Determination of the Initial Inquiry Committee: Within 10 days from the receipt of the report of the Initial Inquiry Committee, the Provost shall notify the subject of the allegation of the determination of the Initial Inquiry Committee and, if applicable, of the appointment of a Fact Finding Committee. The subject of the investigation shall have an opportunity to submit comments on the Initial Inquiry Committee report, which comments will be attached as an addendum to the report.

B. Investigation by the Fact Finding Committee:

1. Appointment of the Fact Finding Committee: If the Initial Inquiry Committee determines that the allegations of misconduct warrant further investigation, the Vice Provost for Research shall, within 15 days, appoint an appropriate Fact Finding Committee whose membership shall include up to 5 individuals including at least 2 faculty members and one university administrator. The respondent shall be notified of the appointment of the Fact Finding Committee. It shall be the responsibility of the Fact Finding Committee to gather factual information and, upon review, determine if there exists sufficient evidence to support a finding that misconduct has occurred. Upon appointment, the Provost shall meet with the Fact Finding Committee to review procedures to be used during the investigation, and further, be available for subsequent consultations on procedures as the investigation proceeds.

2. Within 10 days following appointment, the Fact Finding Committee shall notify the subject of the investigation of the composition of the Fact Finding Committee, the substance of the evidence warranting additional investigation and shall invite such person to provide the committee with any pertinent information or to meet with the Fact Finding Committee, with or without counsel, to discuss the matter.

3. The Fact Finding Committee shall complete the investigation within a reasonable time not to exceed 90 days. If, at the end of this period, additional time is required, the Fact Finding Committee will provide a written status report to Provost and the SCC citing the reasons for the delay, reporting on the progress in the investigation and providing a revised schedule for completion of the investigation. In the case of Public Health Service supported research, the Vice Provost for Research shall, where necessary, submit to the Office of Research Integrity (ORI) a written request for an extension and an explanation for the delay that includes an interim report on the progress to date and an estimate for the date of completion of the report and other necessary steps.

4. The investigation of the Fact Finding Committee shall include examination of all documentary evidence and, whenever appropriate, interviews of individuals against whom the allegation is made and the complainant or any other individuals who might have information regarding relevant facts. The Fact Finding Committee may, with approval of the Provost, consult with knowledgeable individuals from outside the institution. Complete copies of all research records and documentary evidence and summaries of interviews should be maintained as part of the investigatory files.

5. At the conclusion of its investigation, the Fact Finding Committee shall prepare written Findings of Fact and shall forward such to the Provost and to the SCC. These written Findings of Fact shall include:

- a. A statement of the specific accusation;
- b. A summary of the evidence or lack of evidence of misconduct;
- c. A statement of detailed findings of fact;
- d. An evaluation of the seriousness of any misconduct found;
- e. A recommendations for possible disciplinary or other action on the part of the university.

6. Upon receipt, the Provost shall forward the Findings of Fact to the subject of the investigation. The subject of the investigation shall be invited to submit, within 30 days, a Rebuttal of the Findings of Fact. Any written Rebuttal by the accused will be attached as an addendum to the Findings of Fact.

7. The Provost shall then forward the Findings of Fact and any Rebuttal from the accused, to the SCC which shall review the matter and shall prepare a separate written Recommendation to either affirm, modify, or reject the Findings of Fact of the Fact Finding Committee. The Recommendation of the SCC shall be forwarded to the Provost who shall, within 15 days, consider and act upon the Recommendations of the SCC and render his or her Decision. The Decision of the Provost shall be final. The Provost shall further initiate any appropriate disciplinary action in accordance with the law and any relevant collective bargaining contract.

8. Notification of Decision: The subject of the allegation shall be notified promptly of the Decision of the Provost.

9. In the case of Public Health Service supported research, the Vice Provost for Research shall notify the ORI of the final outcome of the investigation. In the case of Public Health Service and other supported research, the Vice Provost for Research is responsible for determining and complying with applicable reporting requirements; fulfilling any requirements to protect public health and secure research assets and equipment; representing the university in all negotiations with the sponsor; and implementing any administrative actions that may be directed by the sponsor.

V. RESOLUTION:

A. Following the Decision of the SCC and upon recommendation of the Provost, disciplinary action under applicable university policies and obligations concerning faculty, personnel, administrators and others in the university and academic community may be instituted.

Disciplinary action may include but is not limited to: removal from particular project; letter of reprimand; special monitoring of future work; probation; suspension; rank reduction; and, termination or dismissal from employment.

B. Where necessary, the Provost shall initiate formal notification of other concerned parties, not previously notified, such as: co-authors, co-investigators, collaborators; editors of journals or other publications in which fraudulent research was published; state professional licensing boards; other institutions, sponsoring agencies, and funding sources with which the individual has been affiliated; professional societies; and, where appropriate, law enforcement authorities.

VI. NOTICES:

Wherever required herein, notice to a faculty member, administrator or other staff or personnel shall be via email to that person's university email account or mailed to such person via regular first class United States mail to his or her current address as maintained by the university.

VII. CONFIDENTIALITY & MAINTENANCE OF RECORDS:

Confidentiality: Since a charge of misconduct, even if unjustified, may damage an individual's reputation and career, any such allegation must be handled in a prudent and confidential manner. An inquiry or investigation must be conducted promptly and expeditiously with full attention given to the rights of all individuals involved (including the privacy rights of any research subjects). All stages of the review, investigation and findings shall be treated as entirely confidential to the extent consistent with the law. To the maximum extent possible, the privacy of the complainant and respondent shall be protected. The university shall make all reasonable and practical efforts, if requested and appropriate, to protect and restore the reputation of persons alleged to have engaged in misconduct but against whom no finding of misconduct is made and of those persons who, in good faith, make allegations or cooperate in misconduct proceedings.

Maintenance of Records: A record of committee reports, exhibits, minutes of meetings, and other materials shall be deposited in the Office of the Provost and maintained in accordance with university policies and state and federal record retention mandates. These records shall be confidential and will be protected from release if release would compromise the conduct of an

investigation, constitute unwarranted invasion of privacy or reveal the content of communications or recommendations of action to be taken with respect to an investigation or individual and shall be further subject to release only in accordance with state and federal law.