PROCEEDURES FOR DEALING WITH MISCONDUCT IN SCHOLARLY RESEARCH
January 15, 1991

INTRODUCTION

The University of Wisconsin-Madison has long recognized that honesty is an essential component of scholarly activity. Faculty and staff are reminded that Chapter UWS 8 of the Wisconsin Administrative Code, the Unclassified Staff Code of Ethics, provides that:

"Every member of the faculty and academic staff at the time of appointment makes a personal commitment to professional honesty and integrity that meets the demanding standards of the state and national academic communities."

In addition, Section 8.02 A of the University Faculty Policies and Procedures states:

"Furthermore, every faculty member has an obligation to maintain professional honesty and integrity, to seek knowledge..."

Failure to adhere to these standards can be cause for discipline or dismissal.

Students are reminded that Chapter UWS 14, Student Academic Disciplinary Procedures provide under Statement of Principles:

"The board of regents, administrators, faculty, academic staff and students of the university of Wisconsin system believe that academic honesty and integrity are fundamental to the mission of higher education and of the university of Wisconsin system. The university has a responsibility to promote academic honesty and integrity and to develop procedures to deal effectively with instances of academic dishonesty. Students are responsible for the honest completion and representation of their work, for the appropriate citation of sources, and for respect of others’ academic endeavors. Students who violate these standards must be confronted and must accept the consequences of their actions."

General Provisions

For purposes of these procedures, misconduct in scholarly research is defined as "fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data."

Misuse by a researcher of University funds (including grant and contract funding from extramural sponsors) is also cause for discipline or dismissal and may be cause for criminal prosecution. However, an allegation of misuse of funds is not within the scope of this policy; such allegation shall be referred promptly to the appropriate dean who will consult with the Assistant Vice Chancellor for Business Services concerning an appropriate course of action.

A violation of institutional procedures or federal regulations on the protection of human or animal research subjects or a violation of state or federal safety laws or regulations is also not within the scope of this policy. An allegation regarding any such violation shall be promptly referred to the chair of the appropriate human subjects committee, to the chair of the appropriate animal research committee, or to the chair of the appropriate safety committee at the University.

The goal of the procedures outlined below is to assure the integrity of scholarly research, to achieve a rapid and equitable resolution of all charges and to assure that all parties are treated with fairness. In order to protect the reputation of an innocent party, the procedures will preserve the maximum level of confidentiality consistent with law and with justice for all parties to these procedures. All parties will take whatever action is required to avoid any unnecessary conflict of interest.

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At any stage of the inquiry, review, or hearing, the Vice Chancellor of Academic Affairs (Vice Chancellor) shall be promptly notified if any of the following conditions exist: (1) there is an immediate health hazard involved, (2) there is an immediate need to protect federal funds or equipment, (3) there is an immediate need to protect the interests of any person making the allegation or of any individual who is the subject of an allegation as well as his or her co-investigators and associates, (4) it is probable that the alleged incident is going to be reported publicly, or (5) there is a reasonable indication of possible criminal violation.

Where an inquiry, review, or hearing results in a finding that no misconduct has occurred, the University will not institute a new inquiry, review, or hearing into an allegation of misconduct where the allegation is made against the same person and is based on material facts, which were reviewed and found not to constitute misconduct during the prior inquiry, review, or hearing, unless new material evidence is presented by a different complainant, or unless the person who is the subject of the inquiry, review, or hearing requests another proceeding.

Because of the difficulties of assessing stale claims and the unfairness to the person against whom the allegation is made, allegations based on conduct which occurred seven years or more prior to the making of the allegation will not be inquired into under this policy unless the circumstances indicate that the alleged conduct was not discoverable earlier.

**Procedures for Reviewing Reports of Possible Misconduct in Scholarly Research Against Faculty and Academic Staff**

[FPP and ASA will need to be revised to add reference to the standing Hearing Committee on Misconduct in Scholarly Research and to incorporate the procedures below for addressing such alleged misconduct.]

**INQUIRY**

**Initial Steps**

An informal report of possible misconduct shall be brought to the attention of the person with immediate responsibility for the work of the individual involved. The person receiving the informal report is responsible for either resolving the matter or encouraging the submission of a formal allegation. An anonymous report shall not be treated as a formal allegation, but may be the basis for an allegation filed by the recipient of the report. The University will make every effort to protect the privacy of those making an accusation. However, if an inquiry is required, fairness may necessitate revealing the identity of the individual making the accusation to the individual against whom the allegation is made and to the inquiry committee. Such a release will occur during a Chancellor's review and hearing.

**Allegations**

A formal allegation of misconduct in scholarly research should be made to the chair of the department (or functional equivalent) or to the corresponding academic dean or, in case of conflict of interest on the part of the chair or academic dean, to the Dean of the Graduate School. If the formal allegation is made to the chair of the department, the chair will forward it to the academic dean of the school or college or, in case of conflict of interest on the part of the academic dean, to the Dean of the Graduate School. The dean is responsible for determining whether the complaint is non-frivolous and falls within the scope of these procedures, or whether it should be resolved by other methods. Any determination that a complaint is not a serious allegation of misconduct in scholarly research, along with supporting documentation for reaching such a decision, shall be transmitted promptly to the Vice Chancellor.

Unless the allegation is determined to be outside the scope of these procedures or is not a serious allegation of misconduct in scholarly research, the dean, if directed to do so by the Chancellor, shall promptly convene an ad hoc committee to conduct an inquiry into the allegation.

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This committee shall consist of at least three individuals who have no responsibility for the research under inquiry, who can be impartial, and who have no interests which would conflict with the University's interest in securing a fair and thorough inquiry. The committee, as a whole, shall have the competence and expertise appropriate for the inquiry. The inquiry committee may, but need not, include individuals from outside the University. Upon initiation of the inquiry, the responsible dean shall notify the individual against whom the allegation has been made of the allegation. The inquiry is an informal administrative process to gather and review factual information. It is designed to separate allegations deserving of further investigation from those which are unjustified or clearly mistaken. Even if the individual against whom the allegation has been made terminates or has terminated his or her status with the University (student or employment), the inquiry will be held.

When possible, the inquiry committee shall interview the individual against whom the allegation has been made and other individuals with relevant information. Summaries or tapes of the interviews shall be prepared and submitted to the interviewed person for comment or revision. The committee shall collect, review, and protect all documentation and other materials relevant to the allegation including but not limited to research data, proposals, publications, correspondence and memoranda. All faculty, staff, and students are obliged to cooperate with the committee by supplying requested documents and information.

The individual against whom the allegation has been made shall be provided with a copy of the report of the committee by the committee chair prior to the committee's submission of the report to the appointing dean. The individual shall be given an opportunity to respond in writing within ten (10) days of his/her receipt of the report. The committee shall consider any such response and make any appropriate changes in its report before submitting it to the appointing dean.

The report of the inquiry committee, along with any response by the individual against whom the allegation of misconduct has been made, shall be completed and transmitted to the appointing dean as soon as possible, but in no case later than 60 days after formal notification to the individual. Any extension of this deadline requires documentation of unusual circumstances, and must be approved by the Vice Chancellor. The written report should contain a precise specification of any charges on which further formal investigation is recommended. The report shall state the evidence reviewed, summarize relevant interviews and include the conclusions of the inquiry. The committee is responsible for maintaining and protecting the documentation relating to the decision and providing it to the Vice Chancellor, who shall preserve it for a period of at least three years.

Any determination by the inquiry committee of nonsubstance of the allegation shall be reported to the Vice Chancellor through the appointing dean. The dean shall advise the individual making the allegation and the individual against whom the allegation was made about the decision of nonsubstance.

An inquiry report recommending further investigation shall be provided to the Dean, Vice Chancellor, and Chancellor immediately upon its completion. The Dean shall notify the individual against whom the allegation has been made, and the complainant.

Within 20 days after receipt of an inquiry report recommending further action, the Chancellor, after consultation with the appointing dean, shall review the matter, shall offer to discuss the matter with the person against whom the allegation has been made, and shall determine whether to dismiss the case or to bring charges that would warrant discipline or dismissal. If the Chancellor decides to bring charges, he/she shall serve a statement of charges on the person charged in the manner provided for in UWS 4.02 or 11.02. The statement shall include notice of the hearing/appeal procedures, and shall specify the sanction deemed appropriate. Service shall be made within 30 days after completion of the inquiry. If the person charged does not request a hearing, the matter shall proceed according to UWS 4.02(1) or 11.02(1). Charges are allegations, not a determination of whether the matters alleged are true.

The person charged may request a hearing within 20 days after notice of the statement of charges (25 days if notice is by first-class mail and publication). The request for hearing shall be (continued)

* This sentence will be modified to say that, "Simultaneously with the appointment of an inquiry committee, the responsible dean or director shall notify..." (actual wording yet to be determined).
addressed in writing to the Chancellor who shall forward it to the chair of the Hearing Committee on Misconduct in Scholarly Research. The Chancellor shall at the same time refer the matter to that committee for appropriate proceedings.

The Vice Chancellor is responsible for notification of any funding agencies involved.

HEARING

If charges are referred to the Hearing Committee on Misconduct in Scholarly Research, the Vice Chancellor shall appoint at least three individuals to that committee who were not on the inquiry committee, who have no responsibility for the research under investigation, who can be impartial, who have no interests which would conflict with the University's interest in securing a fair and thorough investigation, and who have the competence and expertise appropriate for the hearing of this matter. One member of the committee shall be a person with legal training and experience, and that person shall be the chair of the committee. Where the person against whom charges have been made is a faculty member, a majority of the hearing committee must be UW-Madison faculty members. The Vice Chancellor may also consider appointment of parties to the committee from outside the University. The Vice Chancellor will consult with the University Committee or the Academic Staff Executive Committee, as appropriate, prior to selection of members for the hearing committee.

If the research is funded by an agency within PHS, the Vice Chancellor shall report the institution's decision to initiate a hearing in writing to the Director, Office of Scientific Integrity (OSI) on or before the date the hearing begins. The notification shall state the name of any individual against whom charges have been made, the general nature of the charges, and the PHS application or grant number involved.

A hearing on the charges shall be commenced not later than 20 days after the request therefor, except this time limit may be enlarged by mutual written consent of the parties or by order of the hearing committee. The hearing shall be a fair hearing and shall include the procedures and rights provided for faculty members in UWS 4.05, 4.06, and for academic staff members in UWS 11.05 and 11.06.

Any individual charged shall make available for examination by the committee all of the following if requested by the committee--laboratory notebooks, records of research activities such as summary reports and drafts of unpublished manuscripts, and other materials associated with the research, including data generated by others. All faculty, staff and students are obliged to cooperate with the committee by supplying requested documents and information.

The hearing committee is charged with determining whether the specific charges are true. The hearing committee will be provided, upon request, legal counsel pursuant to UWS 4.06(f) and 11.06 (2)(b). The hearing committee shall be responsible for assuring that both the evidence tending to show that misconduct occurred and the evidence tending to dispute that misconduct occurred is presented. The hearing committee shall have the responsibility to question all witnesses. Expert opinions, other information, records and data may be requested by the hearing committee. The committee will maintain a file of all information received during the hearing. Following the hearing procedure, the file will be transmitted to the Vice Chancellor.

In order to make a finding of misconduct in scholarly research, the committee must be satisfied that there is clear and convincing evidence of such misconduct.

The hearing procedure should ordinarily be completed by the hearing committee within 110 days of its initiation. This includes conducting the hearing, preparing the draft report of the findings, making that report available for comment by the individual against whom the charges were made, and submitting the final report to the Vice Chancellor.

The committee will prepare a draft report and provide it to the individual against whom the charges were made. Such individual will have ten (10) days from receipt of the draft report to submit a response to the committee. At the end of that ten (10) day period, the committee will

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prepare a final report for the Vice Chancellor. The final report of the hearing committee to the Vice Chancellor should include the policies and procedures under which the hearing was conducted, the findings of the committee, and the basis for the findings, and any recommended sanction(s).

Except as provided below, the committee report must be submitted to the Vice Chancellor within 110 days of the service of notice of charges on the individual charged, so that the Vice Chancellor can report to OSI, where appropriate, within the required 120 days.

If the research is funded by an agency within PHS, the Vice Chancellor shall submit a report to OSI which describes the policies and procedures under which the hearing was conducted, how and from whom information was obtained, the findings and the basis for the findings, an accurate summary of the views of any individual found to have engaged in misconduct and a description of any sanctions being sought by the University. The Vice Chancellor shall make the documentation substantiating the hearing committee's findings available to the Director of OSI.

If it appears that it will be impossible to complete the hearing committee report within 110 days, no later than 90 days after service of the notice of charges, the committee will provide the Vice Chancellor with a written request explaining the need for extra time and an estimate of the expected date of completion. If the research is funded by an agency within PHS, that request will be forwarded to OSI by the Vice Chancellor. If the request for additional time is granted by the OSI, the committee will prepare periodic progress reports as requested by the OSI.

**Further Review for a Faculty Member**

Within 10 days of receipt of the hearing committee's final decision, a faculty member may ask for review of the decision by the Committee on Faculty Rights and Responsibilities (CFRR) on the hearing committee record on either or both of these grounds: 1) that the decision of the hearing committee is clearly erroneous; 2) that the recommended sanction is inappropriate. If such review is not requested within 10 days, the faculty member is deemed to have waived the right to such review and the hearing committee decision will be deemed submitted to the Chancellor for review under UWS 4.07.

If the faculty member makes a timely request for review by CFRR, CFRR will provide an opportunity for the faculty member and hearing committee to submit a written statement and to appear personally before CFRR. CFRR, based on the hearing committee record and any statement and arguments submitted by the faculty member or hearing committee, will make a decision and provide it to the Chancellor for review.

Procedures thereafter shall be according to UWS 4.07 and 4.08 or UWS 6.01.

**Further Review for an Academic Staff Member**

Within 10 days of the receipt of the hearing committee's final decision, an academic staff member may ask for review of the decision by [the appropriate review committee to be determined in consultation with the Academic Staff Assembly, hereinafter called "Review Committee."] on the hearing committee record on either or both of these grounds: 1) that the decision of the hearing committee is clearly erroneous; 2) that the recommended sanction is inappropriate. If such review is not requested in 10 days, the academic staff member is deemed to have waived the right to such review and the hearing decision will be deemed submitted to the Chancellor for review under UWS 11.07 or 11.11.

If the academic staff member does request review by the Review Committee within 10 days, that committee will provide an opportunity for the academic staff member and the hearing committee to submit a written statement and to appear personally before the Review Committee. The Review Committee, based on the hearing committee record and any statement and arguments submitted by the academic staff member or the hearing committee, will make a decision and provide it to the Chancellor for review.

Procedures thereafter shall be according to UWS 11.07-11.10 or 11.11.

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Procedures for Reviewing Reports of Possible Misconduct in Scholarly Research Against Students

Reports of possible misconduct against students shall be handled according to the requirements of UWS 14. Any time limits applicable under 42 CFR Part 50 will be observed in student misconduct in scholarly research investigations.

Institutional Responsibility to Notify OSI, Where Research is Supported by PHS Grants

During the course of the hearing, the hearing committee shall apprise the Vice Chancellor and the Vice Chancellor shall apprise OSI of any significant findings which might affect current or potential Department of Health and Human Services funding of any individual charged or which might require agency interpretation of funding regulations.

At any stage of the inquiry or hearing, the committee shall promptly notify the Vice Chancellor and the Vice Chancellor shall notify OSI if any of the following conditions exists: (1) there is an immediate health hazard involved, (2) there is an immediate need to protect federal funds or equipment, (3) there is an immediate need to protect the interests of any person making the allegation or of any individual who is the subject of an allegation as well as his or her co-investigators and associates, (4) it is probable that the alleged incident is going to be reported publicly, or (5) there is a reasonable indication of possible criminal violation. If a criminal violation is possibly involved, the institution must inform OSI within 24 hours.

If an inquiry, Chancellor's review, or hearing is to be terminated for any reason without completing all the relevant requirements, the Vice Chancellor shall make a report of such planned termination, including a description of the reasons for such termination, to OSI, which will then decide whether further investigation review should be undertaken.

If further review by CFRR or the Review Committee, the Chancellor, or the Board of Regents alters the decision, the Vice Chancellor shall notify OSI of the changes with an explanation of such changes.

Subsequent Action Following Completed Hearing and Appeal or Student Academic Misconduct Procedures

If the alleged misconduct in scholarly research is substantiated, the Vice Chancellor shall notify any agency sponsoring the research of the results of the hearing and appeal or student academic misconduct procedures under UWS 14. If it appears that the research is based on scholarly misconduct and is invalid, the researchers shall be requested to withdraw all pending abstracts and papers emanating from the research, and editors of journals in which relevant papers appeared shall be notified. Moreover, institutions and sponsoring agencies with which the individual has been affiliated shall be notified if it is believed that the previous research is based on scholarly misconduct and is invalid.

Appropriate disciplinary action, where misconduct in scholarly research is substantiated by the above-stated procedures, shall be taken with regard to a faculty member, an academic staff member or a graduate assistant or other student.

If an allegation of misconduct in scholarly research is not substantiated by the hearing and appeal, or by the student academic misconduct procedures under UWS 14, the University shall make diligent efforts, as appropriate, to protect or restore the reputation of any person alleged to have engaged in the misconduct. The University shall also take steps to assure that any person who made an allegation in good faith will not experience retaliation. Additional protection against retaliation is afforded under Wis. Stats., sec. 230.80, et seq.