

YOUNGSTOWN STATE UNIVERSITY

PROFESSIONAL CONDUCT POLICY

Among the basic principles of Youngstown State University are the pursuit of truth and the recognition and responsible exercise of academic freedom. From these principles derive such ideals and values as freedom and openness of inquiry, fairness and discretion in administration, and integrity in scholarship, teaching, and service. The faculty and administration of the University affirm and honor the preservation, growth, and flourishing of these values throughout all their activities, including budgeting and funding, employment and selection, promotion and tenure, teaching and learning, scientific and administrative research, and other professional endeavors. Accordingly, professionalism in all conduct is essential to the concepts of academic integrity and fair administration and to their responsible exercise. It is from this background that the following policy and procedures are to be implemented for addressing allegations of professional misconduct.

I. PROFESSIONAL MISCONDUCT

‘Professional misconduct’ for purposes of this policy means:

- (a) fabrication, falsification, plagiarism, or other intentional deception in proposing, awarding, administering, conducting, and/or presenting or reporting results of scientific research, administrative or scholarly inquiry, or creative endeavors;
- (b) any other practices that violate generally accepted standards of conduct expressed by an applicable written professional code of ethics within the administrative, academic, and/or scientific communities;
- (c) any material failure to comply with Federal, state, or local laws or regulations and/or University policies pertaining to conduct or protection of employees, researchers, human subjects, or the public or to ensuring the welfare of laboratory animals; or
- (d) failure to comply with other material legal or contractual requirements governing scholarly activities and research and/or University administration.

II. DEFINITIONS

- (A) ‘Fabrication’ means the creation of nonexistent or fictitious data or results.
- (B) ‘Falsification’ means the manipulation or alteration of data for the creation or reporting of false results.

- (C) ‘Plagiarism’ means representing the work of another person, including their words, ideas, or methods, as one’s own in a public forum or medium. In general, use of the work of another person should be accompanied by proper citation or acknowledgment. However, it should be recognized that requirements and specificity of citation or acknowledgment may be determined by the expectations or common practices of the forum or medium within which the use occurs. Accordingly, the fact that the work of another person is not cited or acknowledged shall not, itself, mandate a finding of plagiarism.

Within closed or private forums or communications, including official meetings of classes and administrative committees and communications limited to their members, determination of plagiarism shall be based upon considerations of:

- (i) the purpose and character of the use, including whether such use is of a self-interested nature or is for purposes other than educational missions;
- (ii) the nature of the work, including whether published and copyrighted and whether part of the generally accepted body of knowledge in a field, discipline, or area;
- (iii) the amount and substantiality of the portion used in relation to the work as a whole; and
- (iv) the effect of the use upon the audience and upon the potential market for or value of the work.

In no case shall a finding of plagiarism apply to written or oral representations that are part of casual conversations, strictly private communications between individuals, or other personal exchanges in which a professional employee is not acting as a representative of the University or in any other professional role.

If a generally accepted code of professional ethics contains additional provisions relating to plagiarism, then that code shall apply to members of that profession.

- (D) “Other practices” that violate accepted professional standards of fairness, candor, and discretion include but are not limited to:
- 1) Recommending or awarding grants, leaves, travel requests, promotions, professional awards or recognitions, or other funds or resources on the basis of personal or political relations or preferences rather than professional judgment of the merits of applications, proposals, nominations, or recommendations.
 - 2) Use of grants, facilities, equipment, supplies, or other resources belonging to the University in support of activities that are not officially authorized or not related to fulfillment of the University’s mission.
 - 3) Selective reporting of favorable results or intentional omission of conflicting data, as an outcome of research or inquiry.

- 4) Gross negligence in administering programs, implementing policies, or collecting or analyzing data in research or inquiry.
- 5) Improper use or release of information, ideas, or data that have been generated or received with the expectation that confidentiality will be preserved in accordance with applicable laws, regulations, University policies, or contractual agreement.
- 6) Stealing, destroying, or otherwise taking or using without permission the property of others or products or research produced by others, such as data, equipment, supplies, computer programs, notes or other records, manuscripts, or specimen collections.
- 7) Failure to disclose to the Ethics Committee or other administrative authority knowledge of professional misconduct on the part of a member of the faculty, administration, or professional staff.

Nothing in these definitions shall be deemed to include unintentional error, omission, or oversight or to obviate sincere and genuine differences in interpretations or judgments of policies, resources, or data.

III. REGULATIONS

- (A) It is a violation of this Professional Conduct Policy for any member of the faculty, professional administrative staff, classified staff, individual working under an independent contract for services, or student assistant to any of the foregoing to engage in or contribute to violation of standards and procedures contained herein, to retaliate against anyone making a good faith allegation of professional misconduct, to obstruct the inquiry into or investigation of allegations of misconduct, or to make other than in-good-faith allegations of misconduct.
- (B) Except as otherwise required by this Professional Conduct Policy or by Federal, state, or local law or regulation, it is a violation of this Policy for any member of the faculty, administration, classified staff, student body, or business or other organization providing services pursuant to an independent contract to violate the confidentiality of a proceeding under this Policy.

IV. PROCEDURES

- (A) Purpose: There shall be a standing Ethics Committee in the Academic Senate whose purpose is to handle allegations of professional misconduct.
- (B) Membership and Term of Office: The Ethics Committee shall consist of twelve members including six tenured faculty, one from each undergraduate college, who shall be appointed by the Executive Committee of the Academic Senate, and six

administrators or professional staff, who shall be appointed by the President of the University. At least two members of the Ethics Committee shall be members of the graduate faculty. Members of the Ethics Committee shall serve for staggered three-year terms. Initially two faculty members and two non-faculty members shall be appointed for a one-year term, two faculty members and two non-faculty members shall be appointed for a two-year term, and two faculty members and two non-faculty members shall be appointed for a three-year term. The Ethics Committee shall elect its own chairperson (hereafter, "the Chairperson") from within the Committee who shall serve a one-year renewable term as chair. The Ethics Committee shall operate under majority rule and a quorum shall consist of seven (7) members.

(C) Allegations

- 1) A person who believes that a faculty member, administrator, or professional staff member has been guilty of professional misconduct shall meet with the Chairperson to discuss the issue in strict confidence. This meeting must occur not later than thirty (30) days after the complainant observes or discovers the alleged misconduct and in any case not later than seven (7) years after the alleged occurrence of the misconduct.
- 2) The Chairperson shall listen to the report by the complainant and advise the complainant as to whether and how to file a formal allegation of professional misconduct with the Ethics Committee and the procedures that must be followed under this policy once an allegation is made. A complainant who wishes to file a formal allegation of professional misconduct must do so not later than fourteen (14) days after the meeting with the Chairperson.
- 3) A formal allegation of professional misconduct is not made unless and until it is received in writing by the Chairperson. Such allegations may not be made anonymously, but at the written request of the person(s) making the allegation, their role in doing so shall remain confidential throughout any subsequent proceeding, strictly provided that their testimony is not required as evidence for substantiation of the allegation. If the complainant's role is thereby allowed to remain confidential, the complainant's name shall be removed from the formal allegation prior to its presentation by the Chairperson to the Ethics Committee and all reports and other communications to the complainant required herein shall be submitted solely by and through the Chairperson.

(D) Inquiry into a Formal Allegation

- 1) Upon receiving a formal allegation, the Chairperson shall call a meeting of the Ethics Committee to inquire into whether the allegation warrants a formal investigation. In conducting this inquiry, the Committee shall be responsible for gathering information and conducting initial fact finding to justify their decision about the need for a formal investigation. Not later than twenty-eight (28) days

from the receipt of a formal allegation of misconduct, the Ethics Committee shall determine by vote of a simple majority consisting of at least seven (7) of its members whether appointment of a Case Investigation Subcommittee is appropriate.

- 2) Not later than fourteen (14) days from the receipt of a formal allegation of professional misconduct, the Chairperson shall notify the person(s) against whom an allegation is made about receipt of the allegation. The person(s) about whom an allegation is made may have at their expense a representative of their choice present during any subsequent proceeding in which they may be asked or required to be involved.
- 3) If appointment of a Case Investigation Subcommittee is determined not to be appropriate, the Chairperson shall within seven (7) days of that determination notify the complainant and the person(s) against whom the formal allegation of misconduct was made that the allegation has been rejected. The Chairperson shall make no public announcement regarding such determination and shall ensure that records pertaining to rejected allegations remain strictly confidential.

(E) Investigation of a Formal Allegation

- 1) If the Ethics Committee determines that appointment of a Case Investigation Subcommittee is appropriate, the Chairperson shall within seven (7) days after that determination notify the complainant and the person(s) against whom the formal allegation of misconduct was made that a formal investigation of the allegation will be conducted.
- 2) Not later than fourteen (14) days after the vote of the Ethics Committee and with the advice of the Ethics Committee, the Chairperson shall appoint a Case Investigation Subcommittee, consisting of three (3) to five (5) tenured faculty, administrators, or professional staff with appropriate background and knowledge, as needed to conduct a thorough and authoritative evaluation of the evidence. At least one (1) member of the Case Investigation Subcommittee shall already be a member of the Ethics Committee. The Chairperson shall also appoint the chairperson of the Case Investigation Subcommittee. The Case Investigation Subcommittee may include tenured faculty, administrators, or professional staff from outside the University in cases where individuals within the University would not have the required expertise or would be subject to an actual or apparent conflict of interest. Except as stipulated herein, the Ethics Committee and the Case Investigation Subcommittee may meet in closed or executive sessions as needed to conduct their business and to protect the confidentiality of their proceedings, and their members are entitled to the assistance of legal counsel and secretarial support at University expense if they request it.
- 3) The Case Investigation Subcommittee shall investigate the allegation of misconduct, determine whether the allegation is justified, and recommend an

appropriate penalty or sanction. The investigation shall include taking testimony from the person(s) against whom the allegation has been made, if possible, and an examination of all pertinent evidence bearing on the allegation. If the investigation includes taking testimony from the complainant and/or others as deemed appropriate, the person(s) against whom the allegation has been made shall not be present but may designate a representative who shall be present and who shall have rights of discovery and cross-examination. All persons being interviewed or giving testimony pursuant to an investigation may have a representative of their choice present to advise them. A quorum of members of the Case Investigation Subcommittee shall be present whenever testimony is given by parties relevant to an investigation. The Case Investigation Subcommittee shall keep detailed records of its investigation, including transcripts of all testimony. Such transcripts shall be available to the person(s) against whom the accusation has been made and their designated representative, if any.

- 4) Not later than sixty (60) days from its appointment, the Case Investigation Subcommittee shall file a report of its investigation to the Ethics Committee, except that it may with adequate explanation request an extension by the Chairperson for no more than an additional thirty (30) days to complete its work. The report of the Case Investigation Subcommittee shall include all of the information and records gathered in its investigation.

(F) Finding on a Formal Allegation

- 1) Not later than twenty-one (21) days from receipt of the report of the Case Investigation Subcommittee, the Ethics Committee shall vote to determine by simple majority consisting of at least seven (7) of its members as to whether the formal allegation of misconduct is substantiated by the evidence.
- 2) Not later than fourteen (14) days from the date of the Ethics Committee's vote on whether an allegation is substantiated, the Chairperson shall report the finding and any recommendation(s) of the Committee to the person(s) making the formal allegation and the person(s) against whom the allegation was made. The person(s) who made the allegation, unless they requested confidentiality, shall also be provided with an explanation of the finding and any recommendation(s) that addresses their role and opinions in the investigation of the case.
- 3) The Chairperson shall maintain all documentation related to the Committee's actions on a formal allegation and arrange for the safe storage of all records of the Committee's meetings, inquiries, investigations, votes, and recommendations, for a period of three years after a finding on the allegation.

- 4) Substantiated Allegation:
- a) If a simple majority consisting of at least seven (7) of the members of the Ethics Committee agree that the allegation has been substantiated, the Committee shall, also by vote of a simple majority consisting of at least seven (7) members, within seven (7) days after that finding, make recommendation(s) concerning relevant penalties or sanctions, including but not limited to the following:
 - i) Removal from involvement or activity on any particular research, scholarly, or administrative project.
 - ii) Orderly termination of an entire research, scholarly, or administrative project.
 - iii) Suspension of privileges, including but not limited to the privilege of submitting external and/or internal proposals for research or scholarly support with University endorsement.
 - iv) Special monitoring of future work by administrative authorities.
 - b) Not later than fourteen (14) days after the vote by the Ethics Committee on penalties or sanctions, the Chairperson shall summarize these proceedings and results in a Professional Misconduct Report and shall provide copies of this report to the person(s) judged to have been engaged in professional misconduct, to their immediate administrative superior(s), to the chairperson of the Academic Senate, to the President of the University, to the Provost of the University, and to the chairperson of the University Board of Trustees. This report shall include the formal allegation, findings of fact, and recommended penalties or sanctions. If no simple majority consisting of at least seven (7) of Committee members agrees upon any penalty or sanction, then the Chairperson shall report that result.
 - c) Not later than fourteen (14) days after receipt of the Professional Misconduct Report, the person found to have engaged in misconduct may file an appeal of the Professional Misconduct Report, as to the formal allegation, findings of fact, and recommended penalties or sanctions, to the appropriate administrative superior, the Provost of the University, the President of the University, or the chairperson of the University Board of Trustees.
 - d) Not sooner than fifteen (15) days and not later than thirty (30) days after receipt of the Professional Misconduct Report from the Chairperson, the relevant administrative superior(s) of the person(s) judged to have been engaged in professional misconduct shall implement the recommendations of the Ethics Committee in regard to penalties or sanctions, if any.
 - e) Should the relevant administrative superior(s) decline or be unable to implement the recommendations of the Ethics Committee, they shall submit an explanation in writing to the Ethics Committee, the chairperson of the

Academic Senate, the Provost, and the President of the University. Upon receiving such explanation, the Chairperson of the Ethics Committee may issue a statement about the case to the Academic Senate, the campus community, the media, and others deemed appropriate.

5) Unsubstantiated Allegation:

- a) If a simple majority consisting of at least seven (7) members of the Ethics Committee agree that the allegation has not been substantiated, then any party notified about the possibility of misconduct or the need to conduct an investigation may be informed of that finding in writing. In announcing a finding that the allegation is unsubstantiated, the Chairperson should consult with the person or persons who were the subjects of the allegation to determine (i) whether the announcement should be a public announcement and (ii) what institutions, agencies, or organizations beyond those initially informed should receive the information about the finding of unsubstantiated allegation, as a means to restore, repair, or reassure the reputations of those involved. The Chairperson should normally be guided by whether or not a public announcement will be helpful or cause further harm in restoring the reputations of those against whom the allegation was made and should give weight to their views in determining who should be notified.

G) Other Notifications

- 1) The Chairperson shall notify all relevant Federal or other legal regulatory or funding agencies if, at any time during an inquiry or investigation into a formal allegation conducted under this Policy, it is determined that any of the following conditions exists:
 - a) There is an immediate health hazard involved.
 - b) There is an immediate need to protect Federal or other legal agency funds or equipment.
 - c) There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) against whom the allegation is made, as well as their co-investigators or associates, if any.
 - d) It is probable that the alleged incident is going to be reported publicly.
 - e) There is a reasonable indication of possible criminal violation, in which case notification of the relevant Federal or other legal agency must occur within twenty-four (24) hours of obtaining that information.

- 2) When a formal allegation involves faculty, administrators, professional staff, or students engaged in conduct or research supported by Federal or other legal agency sponsors, additional agency notification requirements apply, as follows:
 - a) When, on the basis of an inquiry, it is determined that an investigation is warranted, the Chairperson shall notify the relevant Federal or other legal funding agency in writing on or before the date the investigation begins that an investigation is being commenced. The notification should inform the relevant Federal or other legal agency at a minimum of the name of the person(s) against whom the allegation has been made, the general nature of the allegation, and the Federal or other legal agency grant application(s) or award(s) involved.
 - b) The Chairperson must submit the final Professional Misconduct Report of a finding of substantiated allegation to the relevant Federal or other legal funding agency, if the finding concerns conduct or research being supported by funding from the agency. This report to the relevant Federal or other legal agency must describe the policies and procedures specified in this Policy under which the investigation was conducted, how and from whom information relevant to the investigation was obtained, the findings, and the basis for the findings. It must include the actual text or an accurate summary of the views of any individual(s) found to have engaged in professional misconduct, as well as a description of any sanctions or corrective actions taken by the University.
- 3) Upon the Ethics Committee's approval of a Professional Misconduct Report in which the allegation of misconduct is in whole or in part substantiated, the Chairperson shall notify in writing each relevant professional association or society whose explicit written code was violated by the misconduct and which is specified in the Report. Such notification shall include the procedures specified in this Policy under which the investigation was conducted, the findings of the investigation, and the basis for the findings.

*****END OF POLICY*****