

UNIVERSITY GUIDEBOOK

Subject: Professional Conduct of Faculty, Department Chairpersons, and Professional/Administrative Employees

Developed by: David C. Sweet
Title: President
Approved: December 17, 2003

Authorized by: David C. Sweet
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Policy: Faculty, department chairpersons, and professional/administrative employees are expected to demonstrate professional conduct that exhibits the values of honesty, integrity, competence, respect, and responsibility. The parameters and procedures defined herein, serve as the framework for defining, and investigating allegations of, professional misconduct, and the administration of sanctions against those found to have violated this policy.

RESOLUTION NUMBER: YR 2000-63; YR 2004-32

This Policy and procedures apply to all full-time and part-time faculty, department chairpersons, and professional/administrative employees with respect to allegations of professional misconduct as defined herein, and supercedes and replaces Board Policy 9006.01 which was effective March 10, 2000. Allegations of professional misconduct related to sponsored programs, use of human subjects in research, use and care of animals in research, scientific misconduct, conflicts of interest and/or commitment in sponsored programs, non-discrimination and equal opportunity, sexual harassment, and computer use shall be reviewed pursuant to procedures provided in Board policies governing these areas. The applicable policies are:

- Board Policy 1013.01—Research, Grants, and Sponsored Programs
- Board Policy 1014.01—Integrity in Research - Use of Human Participants
- Board Policy 1015.01—Integrity in Research - Use and Care of Animals
- Board Policy 1016.01—Scientific Misconduct
- Board Policy 1017.01—Objectivity in Research - Avoidance of Conflicts of Interest and/or Commitment in Sponsored Research
- Board Policy 2002.01—Equal Opportunity Discrimination Complaint Procedures
- Board Policy 2003.01—Sexual Harassment
- Board Policy 4009.01—Use of University Computing Resources

I. PROFESSIONAL MISCONDUCT

A. 'Professional misconduct' for purposes of this Policy means:

- 1) 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.
- 2) Recommending or awarding grants, leaves, travel requests, promotions, professional awards or recognitions, or other funds or resources in violation of applicable University policies, agreements, contracts, grants, laws and regulations.
- 3) Use of grants, facilities, equipment, supplies, or other University resources in violation of applicable University policies, agreements, contracts, grants, laws and regulations.
- 4) Selective reporting of favorable results, or intentional omission of conflicting data, as an outcome of research or inquiry.
- 5) Improper use or release of information, ideas, or data in violation of applicable University policies, agreements, contracts, grants, laws and regulations.
- 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) Misrepresentation of one's credentials.

B. No person shall:

- 1) Disregard the procedures contained herein.
- 2) Retaliate against anyone making a good faith allegation of professional misconduct.
- 3) Obstruct the inquiry into or investigation of allegations of professional misconduct.
- 4) Deliberately make false allegations of professional misconduct.

Such actions may also be considered to be professional misconduct and a violation of this Policy and subject to the procedures herein or other disciplinary measures.

- C. Nothing in this section shall be interpreted to include unintentional error, omission, or oversight or to obviate sincere and genuine differences in interpretations or judgments regarding policies, resources, or data.

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 the person’s words, ideas, or methods, as one’s own in public or private forums or media.
 - 1) Determinations of plagiarism, including allegations involving official meetings of classes, shall include consideration of:
 - a. the purpose and character of the use, including whether such use is of a self-interested nature or is for purposes other than an educational or professional mission;
 - b. 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;
 - c. the amount and substantiality of the portion used in relation to the work as a whole; and
 - d. the effect of the use upon the audience and upon the potential market for or value of the work.
 - 2) In general, use of the work of another person should be accompanied by proper citation or acknowledgment. However, the requirements and specificity of citation or acknowledgment may be determined by the expectations or common practices of the forum, medium, or discipline within which the use occurs. If a generally accepted code of professional ethics for a particular discipline contains additional or different provisions related to plagiarism, then that code shall apply to members of that profession. Accordingly, the fact that the work of another person is not cited or acknowledged shall not, itself, mandate a finding of plagiarism.

- 3) 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 faculty member, department chairperson, or professional/administrative staff member is not acting as a representative of the University or in his/her professional role.
- D. Nothing in these definitions shall be interpreted to include unintentional error, omission, or oversight or to obviate sincere and genuine differences in interpretations or judgments regarding policies, resources, or data.

III. PROCEDURES

A. Professional Conduct Committee

- 1) A standing Professional Conduct Committee (“Committee”) in the Academic Senate will be responsible for addressing allegations of professional misconduct in accordance with this Policy. The Committee and any subcommittee will receive appropriate legal and secretarial support in connection with their work.
- 2) The Committee shall consist of twelve (12) members. Six (6) members shall be tenured faculty, one (1) from each undergraduate college appointed by the chair of the Academic Senate, and six (6) members shall be professional/administrative employees appointed by the President of the University. At least two (2) tenured faculty members of the Committee shall be regular members of the graduate faculty. Members of the Committee shall serve for staggered three (3) year terms. Initially two (2) faculty members and two (2) non-faculty members shall be appointed for a one (1) year term, two (2) faculty members and two (2) non-faculty members shall be appointed for a two (2) year term, and two (2) faculty members and two (2) non-faculty members shall be appointed for a three (3) year term. The Committee shall elect its own chairperson (“Chairperson”), who shall serve a three- (3) year term as chairperson and member. The Committee shall operate under majority rule, and a quorum shall consist of seven (7) members.

B. Allegation of Professional Misconduct

- 1) A person who believes that a faculty member, department chairperson, or professional/administrative staff member has engaged in professional misconduct as defined by this Policy 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 professional misconduct and in any case not later than three (3) years after the alleged occurrence of the professional misconduct.
- 2) If the Chairperson is uncertain as to whether the alleged professional misconduct is subject to review pursuant to this Policy or another Board policy, the Chairperson shall raise the question with the chair of the Academic Senate. The chair of the Academic Senate, the President of the University, and the Provost/Vice President for Academic Affairs, or their designees, shall confer and determine by a majority vote which policy is appropriately applied to the alleged professional misconduct. In cases where the alleged misconduct involves a sponsored program, the Dean of Graduate Studies and Research shall be consulted prior to the determination.
- 3) The Chairperson shall listen to the concerns of the complainant and advise the complainant as to how to file a formal allegation of professional misconduct and the procedures that must be followed under this Policy once a formal 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.
- 4) A formal allegation of professional misconduct is not made unless and until it is received in writing by the Chairperson and may not be made anonymously.

C. Inquiry Into Formal Allegation

- 1) Not later than seven (7) days from the receipt of a formal allegation of professional misconduct, the Chairperson shall notify the person against whom the allegation is made. The person against whom a formal allegation is made may be present during any inquiry proceeding along with, at his/her expense, representatives of his/her choice.

- 2) Upon receiving a formal allegation, the Chairperson shall call a meeting of the Committee to inquire as to whether the allegation warrants a formal investigation. In conducting this inquiry, the Committee shall be responsible for gathering information and conducting an initial fact finding to justify its decision regarding the need for a formal investigation. Not later than twenty-eight (28) days from the receipt of a formal allegation of professional misconduct by the Chairperson, the Committee shall determine whether a formal investigation of the allegation is appropriate. At least seven (7) votes in the affirmative shall be required to determine that a formal investigation is appropriate.
- 3) If a formal investigation is determined not to be appropriate, the Chairperson shall within seven (7) days of that determination notify the complainant and the person against whom the formal allegation of professional misconduct was made that the allegation has been rejected. The Chairperson shall make no public announcement regarding such determination, unless he/she deems it necessary to protect the reputation of the person against whom an allegation was made.

D. Investigation of a Formal Allegation

- 1) If the Committee determines that a formal investigation of the allegation is appropriate, the Chairperson shall notify the complainant and the person against whom the allegation of professional misconduct was made within seven (7) days after that determination that a formal investigation of the allegation will be conducted. Not later than fourteen (14) days after the vote of the Committee, and with the advice of the Committee, the Chairperson shall appoint a Case Investigation Subcommittee (“Subcommittee”) consisting of five (5) members comprised of tenured faculty, administrators, and/or professional staff with appropriate background and knowledge to conduct a thorough and authoritative evaluation of the evidence and information bearing upon the allegation. At least one (1) member of the Subcommittee shall be a member of the Committee. The Chairperson shall also designate the chairperson of the Subcommittee. The 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.

- 2) The Subcommittee shall investigate the allegation of professional misconduct and determine whether the allegation is justified. The investigation shall include interviews with the person against whom the allegation has been made, if possible, and an examination of all pertinent evidence and information bearing upon the allegation. A quorum shall be present whenever testimony is given in connection with an investigation. A quorum shall consist of no fewer than three (3) members of the Subcommittee. The Subcommittee shall keep detailed records of its investigation, including transcripts of all testimony.
- 3) The person against whom the allegation is made and his/her representatives shall be provided with all documents, records, statements and any other information and material gathered or used by the Subcommittee. If the investigation includes interviews, testimony, or the appearance of any person before all or part of the Subcommittee, the person against whom the allegation has been made and/or representatives of his/her choice may be present and question any such persons. In addition, they shall have the right to obtain documents, records and information, and to interview witnesses, including the complainant, regarding the allegation. All persons being interviewed, giving testimony, or otherwise making an appearance before all or part of the Subcommittee may have representatives of their choice present to advise them. Any person who chooses to have the aid of representatives shall do so at his/her own expense.
- 4) Not later than sixty (60) days from its appointment, the Subcommittee shall file a report of its investigation with the Committee, except that it may request an extension from the Chairperson for no more than an additional thirty (30) days to complete its work. The report of the Subcommittee shall include all of the information and records gathered in its investigation.

E. Finding of a Substantiated Allegation

- 1) Not later than twenty-one (21) days from receipt of the report of the Subcommittee, the Committee shall vote to determine whether or not the formal allegation of professional misconduct is substantiated by the evidence. At least seven (7) votes in the affirmative shall be required to find that the allegation is substantiated. If the allegation is substantiated, the Committee may also recommend penalties or sanctions, provided at least seven (7) members of the Committee agree on penalties and sanctions.

- 2) Not later than fourteen (14) days after a finding by the Committee that the allegation of professional misconduct is substantiated, the Chairperson shall prepare a Professional Misconduct Report and shall provide copies of this report to the person against whom the finding of professional misconduct was made, his/her immediate administrative superior, the person who made the allegation, the chair of the Academic Senate, the President of the University, the vice president of the division where the person against whom the finding was made works, and the chairperson of the University Board of Trustees. This report shall include the formal allegation, findings of fact, and any recommended penalties or sanctions.

F. Finding of an Unsubstantiated Allegation

If at least seven (7) members of the Committee do not affirmatively vote that the allegation is substantiated, then the allegation will be found to be unsubstantiated, and the Chairperson shall promptly notify the person who was the subject of the allegation, his/her immediate administrative superior, the person who made the allegation, the chair of the Academic Senate, the President of the University, the vice president of the division where the person against whom the allegation was made works, the chairperson of the University Board of Trustees, and others deemed appropriate by the Chairperson, including professional societies.

G. Appeal of a Substantiated Allegation

- 1) Not later than fourteen (14) days after receipt of the Professional Misconduct Report, the person found to have engaged in professional misconduct may file an appeal of the Professional Misconduct Report, as to the formal allegation, application of the Policy, procedures followed, findings of fact, and recommended penalties or sanctions, with the President of the University. If the person found to have engaged in professional misconduct is the President of the University, the appeal shall be filed with the chairperson of the University Board of Trustees.
- 2) The person with whom the appeal is filed shall appoint a committee to review the appeal and make a recommendation. The person with whom the appeal is filed, or any committee he/she appoints in connection with the appeal, may conduct whatever level of review they determine to be appropriate, including interviewing witnesses and reviewing documents. If the recommended penalty or sanction in the Professional Misconduct Report is termination, then a de novo review of the allegation shall be conducted on appeal.

- 3) Not later than thirty (30) days after an appeal is filed, the person with whom the appeal is filed shall issue a decision on the appeal. If the appeal is upheld, the person granting the appeal shall promptly notify all appropriate parties. This notification shall include the rationale for granting the appeal. If the appeal is denied, the person denying the appeal shall promptly notify all appropriate parties, including the immediate administrative superior of the person determined to have engaged in professional misconduct. This notification shall include the rationale for denying the appeal. Alternatively, the person with whom the appeal is filed may modify any part of the Professional Misconduct Report.

H. Administrative Implementation of Sanctions

- 1) Absent an appeal, or if the appeal is denied or a modified Professional Misconduct Report is issued, the immediate administrative superior of the person found to have engaged in professional misconduct may implement, or engage the process to implement, any recommended sanctions of the Professional Misconduct Report, impose his or her own sanctions, or take other action. If the person found to have engaged in professional misconduct is a member of the YSU-OEA bargaining unit, any sanctions imposed must be administered in a manner consistent with the YSU/YSU-OEA Agreement. If the person found to have engaged in professional misconduct is a member of the YSU-APAS bargaining unit, any sanctions imposed must be administered in a manner consistent with the YSU/YSU-APAS Agreement. If the person found to have engaged in professional misconduct is not a member of any bargaining unit, any sanctions imposed must be administered in a manner consistent with applicable University policies.
- 2) Should the immediate administrative superior decline to implement or to engage the process to implement the recommendations of the Professional Misconduct Report or the determination of the person with whom the appeal was filed, he/she shall issue an explanation in writing to the Chairperson, the chair of the Academic Senate, the President of the University, the vice president of the division where the person against whom the finding was made works, and the chairperson of the University Board of Trustees.

I. Records

The Chairperson shall maintain all documentation related to the Committee's actions regarding formal allegations and arrange for the safe storage of all records of the Committee's and Subcommittee's meetings, inquiries, investigations, votes, and recommendations, for a period of three (3) years after a finding on the allegation.

J. Conflict of Interest

No person shall serve on the Committee or Subcommittee, in a given case, if such a person is the person against whom an allegation of professional misconduct has been made, or if such person has a personal interest in the outcome of the case. No person shall hear an appeal of a finding of professional misconduct, in a given case, if such person is the person found to have engaged in professional misconduct or if such person has a personal interest in the outcome of the case. If there is a need to appoint a temporary or permanent replacement member of the Committee or Subcommittee, the original appointing person shall appoint the replacement. If the chair of the Academic Senate has a conflict of interest in a given case, the President of the University shall appoint the replacement. If the President of the University has a conflict in a given case, the chairperson of the University Board of Trustees shall appoint the replacement.