

Implementing Procedures for Policy Regarding Allegations of Scholarly Misconduct by Faculty and Staff (TU 03-01.10)

Towson University's *Policy Regarding Allegations of Scholarly Misconduct by Faculty and Staff (TU 03-01.10)* (the "Policy") is designed to instill and promote the principles of professional integrity, to prevent scholarly misconduct, and to discover and to censure instances of misconduct when they occur, in accordance with The University System of Maryland's *Policy on Misconduct in Scholarly Work (USM III-1.10)*. These implementing procedures detail the processes by which suspected or apparent scholarly misconduct is reported and investigated at Towson University.

These procedures may be amended from time to time without the need to amend the Policy.

Defined terms used in these procedures are defined in the Policy.

A. Complaint and Preliminary Review of Allegations of Scholarly Misconduct

1. Suspected or apparent Scholarly Misconduct should be reported to the Dean of Graduate Studies. A report of Scholarly Misconduct must be in writing and signed. Prior to reporting Scholarly Misconduct, a person may informally discuss the matter with the appropriate department chair, director, dean, or supervisor. Such informal consultations or requests for information will not, in and of themselves, be considered a report of Scholarly Misconduct.
2. If the Dean of Graduate Studies has a possible Conflict of Interest or is unavailable to begin a review immediately, the report should be referred to the Provost who will designate a substitute administrator to oversee the process and carry out responsibilities assigned to the Dean of Graduate Studies under this policy.
3. The Dean of Graduate Studies shall preliminarily review any report of Scholarly Misconduct and confer with University Legal Counsel, as appropriate, to determine: (a) whether the report warrants initiation of the inquiry process according to the Policy and these procedures; (b) whether other policies and procedures should be invoked; or (c) whether the report is without any reasonable basis and should be dismissed. If the Dean of Graduate Studies determines that an inquiry is not warranted, the Dean shall consider whether the report of Scholarly Misconduct was made in Good Faith. If the Dean of Graduate Studies determines that the report was not made in Good Faith, then the Dean will recommend that the Provost or vice president of the unit in which the Complainant serves take appropriate disciplinary action(s).
4. Upon initiating the inquiry process, the Dean of Graduate Studies will notify the Complainant and the Respondent in writing of the allegations, the procedures that will be used to examine the allegations, and the membership of the committee of inquiry. Within five business days of the notification by the Dean of Graduate Studies, the Respondent or Complainant may submit a written request to the Dean of Graduate Studies of names to be excluded from appointment on the grounds of potential bias or Conflict of Interest. The Provost or a designee will determine whether to exclude these names from the list of committee appointments.
5. Upon initiating the inquiry process, the Dean of Graduate Studies will take all reasonable and practical steps to obtain custody of, inventory, and secure all research Records relevant to the allegation.
6. Upon initiating the inquiry process, the Dean of Graduate Studies will assess the report to determine whether it involves activities with External Sponsors. If so, the Dean of Graduate Studies in consultation with the Assistant Vice President for Research will oversee compliance with any applicable External Sponsor reporting requirements throughout the process.

B. Inquiry

1. The purpose of an inquiry is to determine whether there is sufficient basis for the allegation to warrant a full investigation and, if further investigation is not warranted, to make a recommendation concerning the disposition of the case. The purpose of the inquiry is not to reach a final conclusion about whether Scholarly Misconduct definitely occurred or (if so) who was responsible. Thus an inquiry need not seek all the relevant information or documentation. Records of the inquiry are confidential to the maximum extent possible as provided herein and are to be passed on to a committee of investigation if an investigation is initiated.
2. The Provost or a designee, in consultation with other University officials as appropriate, will appoint a committee of inquiry. The Dean of Graduate Studies will be a non-voting member of the committee. The committee of inquiry will be composed of three faculty who shall be members of the Faculty Hearing Committee. The Dean of Graduate Studies may recommend up to three additional members to the Provost or the designee for appointment to the committee of inquiry if the committee requires additional expertise to judge the details of the allegation. The Provost or a designee will take reasonable steps to ensure that the members of the committee are unbiased, do not have real or apparent Conflicts of Interest, and have appropriate expertise to evaluate the issues related to the allegation. Every effort shall be made to appoint the committee within a reasonable timeframe after initiation of the inquiry, taking into consideration the particular circumstances of the allegation, but the committee should be appointed within no more than 20 business days from the initiation of the inquiry or within 20 days of the start of the academic year if the allegation is reported after the closure of the faculty contract period.
3. The inquiry is not in the nature of a criminal or civil proceeding. It is not modeled on those adversarial systems, and is not governed by their procedures and rules of evidence. Parties may have the assistance of counsel; however, counsel is for advisory purposes only and may not participate in the process. Parties must speak for themselves.
4. The committee of inquiry shall conclude its process as expeditiously as possible. The committee of inquiry will use reasonable efforts to complete the inquiry and file a written report within forty-five business days from initiation of the inquiry. If this deadline cannot be met, the Dean of Graduate Studies and the Provost shall be advised and the Record of the inquiry shall include documentation of the reasons for exceeding the deadline. The Assistant Vice President for Research shall inform any relevant External Sponsors of delays, as required.
5. The Dean of Graduate Studies will prepare a charge for the inquiry committee that:
 - a. Sets forth the time for completion of the inquiry;
 - b. Describes the allegations and any related issues identified during the assessment of the allegation;
 - c. States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent, Complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether Scholarly Misconduct definitely occurred or who was responsible;
 - d. States that an investigation is warranted if the inquiry committee determines that there is a reasonable basis for concluding that the allegation falls within the University's definition of Scholarly Misconduct and/or within the definition and jurisdiction of any relevant External Sponsor, and that the allegation may have substance, based on the committee's review during the inquiry;
 - e. Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of the Policy and these procedures and, if applicable, any External Sponsor requirements.
6. At the inquiry committee's first meeting, the Dean of Graduate Studies will review the charge with the committee; discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry; assist the committee with organizing plans for the committee; and answer any questions raised by the committee. The Dean of Graduate Studies will be present or available throughout the inquiry to advise the committee as needed.

7. The Complainant and Respondent may present information, expert opinions, records, and other pertinent data; the committee of inquiry may request additional information and/or documents. The committee of inquiry may interview the Complainant, the Respondent, and key witnesses as well as examine relevant research Records and materials. Witnesses' testimony shall be summarized. The committee of inquiry will include the summaries in the Record of the investigation. All parties must receive timely copies of all documents submitted by any of the principals. The committee of inquiry will evaluate the evidence, including the testimony obtained during the inquiry. The committee of inquiry will review the relevant materials and documents that are available and determine whether additional materials, documents and/or interviews are needed. The committee of inquiry will decide whether an investigation is warranted based on the criteria in the Policy and these procedures, and as necessary, the criteria set forth by any relevant External Sponsor. If the committee of inquiry determines that an investigation is warranted, it will make a recommendation as to what further evidence to consider.
8. All materials reviewed by the committee of inquiry will be considered confidential and shared only with those with a need to know. The members of the committee are responsible for the security of relevant documents. Copies of all documents and related communications must be maintained in a secure space.
9. The committee of inquiry will prepare a report of its findings which should include: (a) the name and position of the respondent; (b) a description of the allegations of Scholarly Misconduct; (c) where applicable, a description of any external support as required by the External Sponsor; (d) a summary of the process; (e) a list of evidence and Records reviewed; (f) summaries of any interviews; (g) the basis for recommending or not recommending that the allegations warrant an investigation; (h) if applicable, the charges allegations for the investigation to consider; (i) names and titles of the committee members and experts involved in the inquiry; and (j) whether any other actions should be taken if an investigation is not recommended. The committee of inquiry will use its best efforts to send the report to the Respondent, the Respondent's immediate supervisor, the appropriate dean, and the Provost (or Unit VP) or a designee within ninety (90) calendar days of the initiation of the inquiry.
10. The Respondent will be given the opportunity to comment on the report. Any comments must be in writing, and must be submitted to the Dean of Graduate Studies within ten (10) business days after the report is sent to the Respondent. If the Respondent comments on the report, the comments must be included in the final inquiry report. The final inquiry report will be sent to the Respondent, the Respondent's immediate supervisor, the appropriate dean, the Provost (or Unit VP) or a designee, and if applicable and appropriate, any External Sponsors, at the same time as the decision respecting the disposition of the case. The Complainant will be informed that the University has investigated the allegations and has addressed the matter in accordance with University policy.
11. The Dean of Graduate Studies may ask the committee of inquiry to undertake such additional inquiry as needed to facilitate a decision respecting the disposition of the case.
12. If during the inquiry, the Respondent acknowledges and corrects the Scholarly Misconduct, the committee of inquiry may recommend to the Provost that further investigation of the allegations is not needed. The Graduate Dean shall ensure completed restitution to all harmed parties.
13. If the final report of the committee of inquiry does not recommend a formal investigation, but does find a need for further alternative action, such action may be taken by the Provost.
14. If the committee of inquiry finds the allegations of Scholarly Misconduct were not made in Good Faith, it shall refer the matter to the Dean of Graduate Studies. A report of Scholarly Misconduct which is not made in Good Faith is a violation of the Policy.
15. If the committee of inquiry plans to terminate the inquiry for any reason prior to completion of the inquiry process, a report of the termination, including a description of the reasons for such termination, shall be made to the Provost.
16. The Dean of Graduate Studies shall inform the Provost or a designee of the final recommendations of the committee of inquiry decision regarding the disposition of the case. Upon approval of the President or a designee, the Provost shall take further action.

17. If the Dean of Graduate Studies, with the approval of the Provost or a designee, decides that an investigation is not warranted, the Dean of Graduate Studies shall secure and maintain for seven (7) years after the termination of the inquiry a sufficiently detailed documentation of the inquiry to permit a later assessment by External Sponsors of the reasons why an investigation was not conducted. These documents shall be provided to relevant External Sponsors upon request.
18. Within 10 business days of the approval of the Provost or a designee, the Dean of Graduate Studies shall provide the Respondent, the Respondent's immediate supervisor, the appropriate dean, and the Provost (or Unit VP) or a designee with a copy of the final report of the committee of inquiry and of the decision respecting the disposition of the case. If appropriate, the External Sponsor and the Complainant will receive a summary of the report and the decision respecting the disposition of the case. In publicizing a finding that the matter does not warrant investigation, the university should be guided by whether any public announcements will be harmful or beneficial in restoring any reputations that may have been affected. Such decisions should generally take into account the preference of any person whose reputation is involved.

C. Investigation

1. If an investigation is warranted, the Provost or a designee shall make every effort to appoint a committee of investigation within a reasonable timeframe, but no more than thirty (30) business days from the initiation of the investigation, following the approval of the report by the Provost or a designee, taking into consideration the particular circumstances of the allegation (as described in section B.19 above).
2. If the report is delivered after the closure of the faculty contract period, the committee will be appointed within the first thirty (30) business days of the start of the academic year. The Provost or a designee will take reasonable steps to ensure that the members of the committee of investigation are unbiased, do not have real or apparent Conflicts of Interest, and have appropriate expertise to evaluate the issues related to the allegation. The committee of investigation will consist of approximately five respected members of the academic, professional, or scientific community. At least 50% of the members of the committee must be members of the Faculty Hearing Committee, and at least one member should be an individual not primarily associated with the University. No member of the committee of inquiry may serve as a member of the committee of investigation.
3. The Dean of Graduate Studies will notify the Complainant and the Respondent in writing of the membership of the committee of investigation. Within five business days of the notification by the Dean of Graduate Studies, the Complainant and Respondent may submit a written request to the Dean of Graduate Studies of names to be excluded from appointment on the grounds of potential bias or Conflict of Interest. The Provost or a designee will determine whether to exclude these names from the list of committee appointments.
4. Every effort should be made to complete the investigation within 120 calendar days; this includes the investigation, preparing the report, allowing time for the Respondent to review and comment on the draft report, and submitting the final report. In the event of a case which cannot be fully investigated within 120 days, the committee of investigation should compile a progress report, identify reasons for the delay, estimate time required to complete the investigation, and request an extension from the Provost. In determining whether to grant an extension, the Provost shall comply with any relevant External Sponsor's policies or regulations.
5. The Dean of Graduate Studies will define the subject matter of the investigation in a written charge to the committee that:
 - a. Sets forth the time for completion of the investigation;
 - b. Describes the allegations and related issues identified during the inquiry;
 - c. Identifies the Respondent;
 - d. Informs the committee that it must conduct the investigation as prescribed in this policy;
 - e. Defines Scholarly Misconduct;
 - f. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, Scholarly Misconduct occurred and, if so, the type and extent of it and who was responsible;

committed intentionally, knowingly, or counter to accepted practices; (ii) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the Respondent, including any effort by Respondent to establish by a preponderance of the evidence that Scholarly Misconduct did not occur due to honest error or a difference of opinion; (iii) identify any external support relevant to the allegation; (iv) identify whether any publications need correction or retraction; (v) identify the person(s) responsible for the Scholarly Misconduct; and (vi) list any current support or known applications or proposals for support that Respondent has pending with External Sponsors.

f. Includes recommendations for institutional actions for any finding in favor of Scholarly Misconduct.

11. The investigation report will be sent to the Provost or a designee, who will (a) approve the finding or recommendation of the committee, or (b) return the report to the committee with a request for further fact-finding or analysis. The Dean of Graduate Studies shall inform the Respondent and the Complainant, as appropriate, of the final decision and intended actions.

D. Resolution

1. Finding of No Scholarly Misconduct:

- a. In publicizing the finding of no misconduct, the University should be guided by whether any public announcements will be harmful or beneficial in restoring any reputations that may have been affected. Such decision should generally take into account the preference of any person whose reputation is involved.
- b. The Assistant Vice President for Research is responsible for informing External Sponsors and others with a legitimate reason to know, in writing, that allegations of Scholarly Misconduct were not supported. The Assistant Vice President for Research shall provide written notice to External Sponsors in the form required under applicable External Sponsors' policies or regulations.
- c. The University may find it necessary to reprimand lax supervision, faulty techniques, or inattention to propriety even when there is no finding of Scholarly Misconduct.
- d. If the allegations of Scholarly Misconduct are deemed not to have been made in Good Faith, The Dean of Graduate Studies shall recommend that the Provost or vice president of the unit in which the Complainant serves take appropriate disciplinary or other action(s). If the allegations, however incorrect, are deemed to have been made in Good Faith, and no disciplinary measures are indicated, efforts should be made to prevent retaliatory actions and to protect, to the maximum extent possible, the positions and reputations of the persons who made the allegations as well as those against whom allegations of Scholarly Misconduct were not confirmed.

2. Finding of Scholarly Misconduct:

- a. When an investigation confirms Scholarly Misconduct, the Assistant Vice President for Research is responsible for informing External Sponsors and others with a legitimate reason to know, in writing, of the outcome. The Assistant Vice President for Research shall provide written notice to External Sponsors in the form required under applicable External Sponsor policies or regulations.
- b. The Provost shall be responsible for implementing institutional action approved by the President. If the approved action is not within the Provost's authority, the President shall assume responsibility, as appropriate.
- c. The University shall take action appropriate for the seriousness of the misconduct, including, but not limited to, the following:
 - i. Disciplinary action such as: termination of employment; removal from a particular project; special monitoring of future work; letter of reprimand; probation for a specified period with conditions specified; suspension of rights and responsibilities for a specified period; financial restitution; removal from an academic program; or dismissal from the University.
 - ii. Notification, as appropriate, to involved parties such as: External Sponsors; co-authors, co-investigators, collaborators, university publications, appropriate campus and other officials; editors of journals in which fraudulent research was published; state professional licensing

boards; editors of journals or other publications, or other institutions with which the individual has been affiliated; and/or professional societies.

E.Appeal

1. A Respondent who has been found to have committed Scholarly Misconduct may appeal the finding of the committee of investigation and/or the sanctions applied. A written statement which details the grounds for appeal must be submitted to the President within thirty (30) calendar days of formal, written notification of the findings of the committee of investigation. Grounds for appeal are limited to the following: new, unconsidered evidence; failure in due process in the investigative process; or personal and/or professional Conflicts of Interest among those involved in the investigation.
2. Upon receipt of the written appeal, the President will evaluate the evidence for the appeal. The President may, but is not required to, order a complete or partial investigation based upon the appeal. The President's decision is final, binding on all parties, and will be conveyed to them in a reasonable timeframe, but no more than thirty (30) days from receipt of appeal.