

**EAST CAROLINA UNIVERSITY  
2012-2013 FACULTY SENATE**

The sixth regular meeting of the 2012/2013 Faculty Senate will be held  
on **Tuesday, February 26, 2013**, at 2:10 p.m. in the Mendenhall Student Center Great Room.

**AGENDA**

Revised 2/22/13

**I. Call to Order**

**II. Approval of Minutes**

[January 29, 2013](#)

**III. Special Order of the Day**

- A. Roll Call
- B. Announcements
- C. Rick Niswander, Vice Chancellor for Administration and Finance  
Budget Update, [Overview of General Fund Revenue](#)
- D. Phyllis Horns, Vice Chancellor for Health Sciences
- E. Mark Sprague, Chair of the Faculty
- F. Wendy Sharer, Quality Enhancement Plan (QEP) Director  
[Quality Enhancement Plan](#)
- G. Ralph Scott, Faculty Assembly Delegate  
Report on February 22, 2013 UNC Faculty Assembly Meeting.
- H. Election of Five Members to the Faculty Officers Nominating Committee  
(*ECU Faculty Manual*, [Part II, Section II](#))
- I. Question Period

**IV. Unfinished Business**

**V. Report of Graduate Council**

- 1. Formal faculty advice on curriculum and academic matters contained in the [February 11, 2013](#) Graduate Council meeting minutes.
- 2. Formal faculty advice on curriculum and academic matters contained in the [January 16, 2013](#), Graduate Curriculum Committee meeting minutes, including items within the Departments of History, Anthropology, and English and the Department of Public Health within the School of Medicine.

## VI. Report of Committees

- A. Committee on Committees, Britton Theurer  
Second reading of proposed revisions to the Distance Education and Learning Technology Committee charge (attachment 1).
- B. University Curriculum Committee, Donna Kain  
Curriculum and academic matters contained in the meeting minutes of [January 24, 2013](#), including curricular actions within the Departments of Chemistry, History, Geography and Foreign Languages and Literatures, College of Health and Human Performance, Honors College, and College of Technology and Computer Science.
- C. Writing Across the Curriculum Committee, Hector Garza
  - 1. Curriculum and academic matters contained in the meeting minutes of [February 11, 2013](#) including request for removal of WI credit for SOCW 3401, revision to prerequisites for CMGT 4300, approval of writing intensive (WI) designation for ENGL 2201, 4110, and revisions to ENGL 1100, 2200, 2400, 3870, 3885.
  - 2. Report for information only on New, More Comprehensive Definition of Writing Intensive (WI) courses (attachment 2).
- D. Educational Policies and Planning Committee, Ed Stellwag  
Curriculum and academic program matters included in the [February 8, 2013](#) meeting minutes, including a request for termination of the [Certificate in Employee Assistance Program](#) (EAP) in the Department of Addictions and Rehabilitations Studies within the College of Allied Health Sciences.
- E. Foundations Curriculum and Instructional Effectiveness Committee, Mike Brown
  - 1. Formal faculty advice on a Co-Curricular Endorsement Policy (attachment 3).
  - 2. Curriculum matters included in the [February 18, 2013](#) meeting minutes, including approval of Foundations Credit in Writing Competency for ENGL 2201 Writing about the Disciplines, in Fine Arts for ENGL 2815 Intro to Creative Writing, and in Humanities for ENGL 3460 Literature and Mythology, ENGL 3470 Popular Literature, ENGL 2570 The Supernatural, and ENGL 3280 African Literature and removal of Foundations Credit from all of the upper-division (3000 and 4000) Sociology courses.
  - 3. Proposed revisions to the *University Undergraduate Catalog*, Section: Academic Advisement, Progress and Support Services, Subsection: Additional Requirements for all Degrees (attachment 4).
- F. Admission and Retention Policies Committee, David Durant  
Policy on Awarding Undergraduate Degrees with Distinction (attachment 5).
- G. Faculty Governance Committee, Marianna Walker
  - 1. Proposed Revisions to the *ECU Faculty Manual*, Part VII, Section III. Research Conduct (attachment 6).
  - 2. Formal faculty advice on revisions to IDEA Chair Survey (attachment 7).
- H. Research/Creative Activity Grants Committee, Britton Theurer  
Formal Faculty Advice on Proposed University Patent Policy (attachment 8).

## VI. New Business

**Faculty Senate Agenda**  
**February 26, 2013**  
**Attachment 1.**

**COMMITTEE ON COMMITTEES REPORT**  
Second Reading of Proposed Revisions to the  
Distance Education and Learning Technology Committee Charge

(Additions are noted in **bold** print and deletions in ~~strike through~~.)

1. Name: Distance Education and Learning Technology Committee
2. Membership:  
8 elected faculty members.

Ex-officio members (with vote): The Chancellor or an appointed representative, the Provost or an appointed representative, the Vice Chancellor for Health Sciences or an appointed representative, the Vice Chancellor for Research and Graduate Studies or an appointed representative, the Chair of the Faculty, one Faculty Senator selected by the Chair of the Faculty, the Chief Information Officer or an appointed representative, and one student member from the Student Government Association.

The chair of the committee may invite resource persons as necessary to realize the committee charge. The chair of the committee may appoint such subcommittees as he or she deems necessary.

3. Quorum: 4 elected members exclusive of ex-officio.
4. Committee Responsibilities:
  - A. **The committee reviews and recommends policies and procedures to enhance faculty teaching and student learning in distance education.** ~~The committee reviews program quality and policies and future directions relating to distance education.~~
  - B. **The committee reviews reports from the University Online Quality Council relevant to the effectiveness of the University's distance education policies and procedures.** ~~The committee examines and recommends policies relating to distance education.~~
  - C. The committee ensures timely, informed faculty opinion on any technology action in any area that may affect significantly the University's academic mission. The committee recommends policy related to the academic use of technology. [All information technology actions that affect more than one academic unit or that are initiated above the academic College or School department levels are recognized as actions that may affect significantly the University's academic mission.
  - D. The committee initiates, reviews, and makes recommendations on proposals to plan, implement, revise or eliminate technology initiatives, goals, standards, policies, procedures or actions that significantly impact the University's academic mission.
  - E. The committee prepares and makes available a format for proposals requesting permission to plan, implement, revise or eliminate an information technology initiative, goal, standards, policy, procedure or action.
  - F. The Committee reviews at least annually those sections within the *University*

*Undergraduate Catalog and University Graduate Catalog* that corresponds to the Committee's charge and recommends changes as necessary.

- G. The chair and vice chair or appointed representatives serve as ex-officio members on the administrative Information Resources Coordinating Council (IRCC) and the chair serves as a member of the administrative Technology Steering Committee.
- H. The chair serves as a liaison between the Faculty Senate and Chief Information Officer.
- I. **The chair or appointed representative serves as ex-officio member on the University Online Quality Council.**

- 5. To Whom The Committee Reports:  
The committee reports to the Faculty Senate its recommendations of policies, procedures, and criteria, **and effectiveness** cited in 4. above.
- 6. How Often The Committee Reports:  
The committee reports to the Faculty Senate at least once a year and at other times as necessary.
- 7. Power Of The Committee To Act Without Faculty Senate Approval:  
The committee is empowered to advise the appropriate personnel as described in 4. above.
- 8. Standard Meeting Time:  
The committee meeting time is scheduled for the fourth Wednesday of each month.

~~(The formation of this Standing University Academic Committee combines both the [Continuing and Career Education Committee](#) and the [Faculty Information Technology Review Committee](#) into one Standing University Academic Committee.)~~

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**Faculty Senate Agenda**  
**February 26, 2013**  
**Attachment 2.**

**WRITING ACROSS THE CURRICULUM COMMITTEE REPORT**

Report on New, More Comprehensive Definition of Writing Intensive (WI) courses

The Writing Across the Curriculum provides the following information for discussion only. The Committee has designed the draft writing intensive (WI) course proposal to reflect initiatives outlined in the Quality Enhancement Plan (QEP) and represents a new, more comprehensive definition of WI courses at ECU.

The Committee requests input from Faculty Senators on three major tenets of the proposal (noted within proposal in **red**) prior to formally being asked to approve revisions to both the Writing Across the Curriculum program and WI course proposal form:

- Cap of 25 students for WI courses
- Elimination of WI by section
- Adoption of the QEPs student learning objectives (SLOs) as writing outcomes for WI courses

The Committee invites Faculty Senators to submit suggestions to the Committee Chair, Professor Hector Garza [garzah@ecu.edu](mailto:garzah@ecu.edu) on how to move forward with this proposal as the tool for an audit of

all existing WI courses. The Committee will use the gathered input to finalize the proposal for formal action by the Faculty Senate in April 2013.

### **What Is “Writing Intensive” at ECU?**

Courses that have been awarded the designation “writing intensive” are those which go beyond merely *assigning* a writing project or series of writing projects to students to test their knowledge of course content. Rather, a WI course provides students with opportunities to learn how to write in the genres, styles, and voices appropriate to the discipline of the course.

While any number of courses in a degree program/major/minor may require students to write in various ways – e.g., short, writing-to-learn activities; formal or informal reading responses; annotated bibliographies; essay exams – the WAC Committee reserves the title “Writing Intensive” to those courses which clearly demonstrate that students are working toward the following outcomes:

- Students will use writing to investigate complex, relevant topics and address significant questions through engagement with and effective use of credible sources;
- Students will produce writing that reflects an awareness of context, purpose, and audience;
- Students will demonstrate that they understand writing as a process that can be made more effective through drafting and revision;
- Students will proofread and edit their own writing, avoiding grammatical and mechanical errors;
- Students will assess and explain the major choices that they make in their writing.

In order for a course to be considered “Writing Intensive,” faculty must demonstrate that the course engages students in all of these writing outcomes.

While Outcome Five may be unfamiliar to some faculty, research on learning transfer makes the compelling case that reflective-analytical/metacognitive activities increase the likelihood that students will be able to transfer knowledge and skills from one activity, project, or course to another. As such, the WAC Committee expects all WI courses to provide space for students to analyze/reflect on the choices they make as writers. The University Writing Program provides several examples of reflective writing assignments that faculty can use/adapt in their courses (<http://www.ecu.edu/writing/>). The UWP staff are also happy to meet and provide feedback on your ideas as you prepare your WI course proposal.

### **Preparing Your WI Course Proposal**

As you work on your course proposal for WI consideration, keep in mind that the members of the WAC Committee represent very different disciplines from across campus, and as such the committee holds no singular assumption about the “right” way to design a WI course. The committee is interested in seeing how your course, as you articulate it below, provides students a scaffold for reaching ECU’s Writing Outcomes. As there is no one way for course projects/activities to meet these outcomes, it is likely that faculty will use a variety of writing activities in order to achieve the goals of a WI course. Your answers below should be written so that someone outside your discipline can understand the types/genres of writing you plan to assign and how those types/genres are intended to help students reach the outcomes. The University Writing Program provides several examples of course proposals for you to use as you create your proposal (<http://www.ecu.edu/writing/>). The UWP staff are also happy to meet and provide feedback on your ideas as you prepare your WI course proposal.

### **What Documents Should I Send the WAC Committee for Review?**

Because WI courses require faculty to provide significant feedback on student work-in-progress, the **WAC Committee has established a course cap of 25 students per section for WI courses.**

Therefore, in addition to the completed form that makes up the rest of this document, faculty proposing a course should also include a letter of support from the unit administrator indicating that the unit understands the WI course cap and has the resources to meet that requirement.

### **What Happens at the WAC Committee Discussion of My Course Proposal?**

Once your proposal has been distributed to the WAC Committee, you will receive a notice that your packet has been given a time on the agenda for a future meeting of the WAC Committee. Ideally, you would show up at that meeting to discuss the proposal with the committee. The committee uses that time to better understand what writing looks like in the discipline that is proposing the course and how this course helps students to be more effective writers in that discipline. The committee may ask for revisions to the course proposal based on that conversation. Typically, the committee votes either to a) accept the proposal as is, b) to accept the proposal pending minor revisions that can be submitted to the chair of the committee and do not require full committee review a second time, or c) to return the proposal to the department for significant revision. Courses that require significant revision will come back to the WAC Committee at the next meeting for reconsideration.

### **How Does the WAC Committee Assess WI Courses?**

Grading and evaluating student work is always the responsibility of the course instructor. Neither the WAC Committee nor the University Writing Program has any interest in second-guessing or questioning the way faculty assess the work of their students.

However, in order to ensure quality of the WAC program at ECU, the WAC Committee, in conjunction with the University Writing Program, has established several methods for assessing the effectiveness and the integrity of the program.

1. Each semester, faculty teaching WI courses are asked to send a copy of their syllabus (and a description of their writing assignments if those are not already detailed in the syllabus) to the University Writing Program. The UWP uses these documents to garner a yearly snapshot of how writing is being taught across campus and makes a report to the WAC Committee on its findings.
2. Based on an established rotation, available on the UWP website, departments/programs are asked every five years to review their WI course offerings and to provide a packet of materials to the WAC Committee which demonstrates that WI course syllabi have consistently included the Writing Outcomes and that writing assignments and teaching practices have worked to help students meet those outcomes. Extensive directions on how to prepare those assessment packets are available on the UWP website.
3. Upon review by the WAC Committee, if courses have not been taught as “writing intensive” and have not sought to meet the ECU Writing Outcomes, the relevant department chair will be notified that the WAC Committee requests approval to remove the WI designation from the course.

### **What about Writing Intensive by Section (WI\*)?**

Because of the amount of confusion that WI\* causes for students and advisors alike, the **WAC Committee no longer approves courses as “Writing Intensive by Section.”** Faculty/departments that propose a WI course should make all faculty aware that all sections of the course, if approved, would be Writing Intensive.

### **Is There Anywhere I Can Go for Help with Creating the Writing Components of My Course?**

Absolutely. The staff of University Writing Program welcomes faculty at any time and is happy to work individually with faculty on proposals or on effective methods for integrating writing into a course. They can also help departments to think about what courses are best for the WI designation.

Course Information

1. Course number: \_\_\_\_\_ Department: \_\_\_\_\_

2. Course name: \_\_\_\_\_

3. Faculty involved: \_\_\_\_\_ Email: \_\_\_\_\_

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4. This course is for:      Majors      \_\_\_\_\_      Non-majors      \_\_\_\_\_      Both      \_\_\_\_\_

5. This proposal is for:                      An Existing                      A New  
    Course                                      Course                                      \_\_\_\_\_

6. How frequently is this course offered?

7. What is the average student enrollment across all sections?  
(WI Courses are capped at 25 students per section.)

\_\_\_\_\_

8. What types of documents (genres) will students write in this course (i.e., reports, memos, research papers, annotated bibliographies, etc.)? Include the expected or required number of pages for each assignment.

9. How are the writing assignments integrated into teaching & learning goals for the course?

\_\_\_\_\_

**The following outcomes represent the ECU Writing Outcomes approved by the WAC Committee. Explain how the projects and activities in your proposed course help students to meet these outcomes.**

SLO 1 How will students use writing to investigate complex, relevant topics and address significant questions through engagement with and effective use of credible sources?

SLO 2 How will students produce writing that reflects an awareness of context, purpose, and audience? If this is a WI course specific to majors, please explain how students will produce writing that reflects an awareness of context, purpose, and audience in written genres of their major disciplines and/or career fields.

SLO 3 How will students demonstrate that they understand writing as a process that can be made more effective through drafting and revision?

SLO 4 How will you help students proofread and edit their own writing, avoiding grammatical and mechanical errors?

SLO 5 How will students assess and explain the major choices that they make in their writing?

**FOUNDATIONS CURRICULUM AND INSTRUCTIONAL EFFECTIVENESS COMMITTEE REPORT**  
Formal Faculty Advice on Proposed Co-Curricular Endorsement Policy

(Additions are noted in **bold** print.)

Co-Curricular Collaborations Funding

The co-curricular collaboration fund was developed within the Division of Student Affairs to resources that promote an extension of curriculum taught in the classroom and to enhance the out-of-classroom experiences for students. Co-Curricular Collaborations enhance student learning and contribute to student success by supporting faculty and staff with creative, curriculum-driven programs, resources and events that occur outside the classroom.

To ensure that the co-curricular collaborations fund distribution is effective and inclusive, an Advisory Committee of faculty, staff, and students will review funding requests for all proposals submitted. The committee will evaluate proposals and make allocation recommendations to the Associate Vice Chancellor for Student Involvement.

Criteria

1. This funding is available for new, innovative, and intellectually creative programs and events.
2. Funding may be requested by students, faculty or staff members. A letter of support must accompany the request from the Director, Department Head or Dean of the department making the request.
3. **If an academic department or program is sponsoring, approving, or endorsing this activity, there must be a signed letter from the unit administrator or program director verifying that the department or program and its faculty have agreed to sponsorship/approval/endorsement of the activity.**
4. Students will be directly and actively involved as a partner in all phases of the program from inception to post-assessment.
5. The funds are to support programs, activities, events or projects that directly support or engage the student population.
6. Programming should be broad-based and engaging in order to attract the interest of the larger ECU Community.
7. Programming must provide opportunities for faculty and students to engage in both formal and informal settings.
8. Program proposals must articulate measureable learning outcomes, develop measurement tools to assess student outcomes, and will provide information on the distribution, collection, and interpretation of data collected.

Guidelines

1. The request must be made by a current Student, Faculty, or Staff member of East Carolina University.

2. Proof of cost must be attached along with a detailed/itemized accounting of estimated costs on the budget summary sheet of this application.
3. All applications should specify other funding sources both internal and external to the University, with amounts granted and specific services or items already funded.
4. Funding will not be granted in totality for any program or activity.
5. Requests for funding may be denied if the committee feels that the organization has not allowed enough time to plan the desired event in accordance with the Department of Student Involvement and Leadership and the 'How to Plan an Event' resource in the Student Organization Office.
6. The individual or recognized organization submitting this application will be held accountable for spending the funds as outlined in the request.
7. The sponsoring individual/organization cannot solicit funds from other activity fee sources such as Student Government Association, Student Activities Board, Office of Greek Life, Center for Student Leadership and Engagement, or the Ledonia Wright Cultural Center, etc.
8. All marketing materials must be approved in advance by the Department of Student Involvement and Leadership.
9. The Department of Student Involvement and Leadership will be listed prominently as a sponsor and included in all forms of promotion and advertising including but not limited to print materials, websites, press releases, television, radio, etc.
10. A completed program evaluation and final expense report should be submitted no later than three weeks after the completion of the event. Failure to do so may result in ineligibility for future funding and/or reimbursement to the Co-Curricular fund.
11. Programs are to be submitted at a minimum of 4 weeks prior to the program date.
12. A Risk Assessment Form must be completed and submitted.
13. Incomplete Application Will Not Be Considered.

#### Special Consideration Topics

- Civil Discourse
- Sustainability
- Social Justice
- Leadership
- Financial Literacy
- Realizing Your Own Power
- Inclusion

#### Additional Services

Additional services are offered as an in-kind donation to approved proposals, which include:

- Contract Specialist
- Graphic Artist
- Assessment Coordinator
- Marketing Specialist

If you have questions, contact Krista Wilhelm, Assistant Director for Educational Programming at [wilhelmk@ecu.edu](mailto:wilhelmk@ecu.edu) or via phone at (252)328-4713.

## FOUNDATIONS CURRICULUM AND INSTRUCTIONAL EFFECTIVENESS COMMITTEE REPORT

Proposed Revisions to the *University Undergraduate Catalog*, Section: Academic Advisement, Progress and Support Services, Subsection: Additional Requirements for all Degrees

(Additions are noted in **bold** print and deletions in ~~strike through~~.)

### Additional Requirements for all Degrees

#### “Writing Intensive Requirement

Students enrolling at East Carolina University must fulfill the writing across the curriculum requirement prior to graduation. To do so, each student must complete a minimum of 12 semester hours of writing intensive courses, typically including ENGL 1100, 1200; at least one semester hour of writing intensive courses in the major; and any other three semester hours writing intensive course of the student’s choice. Students entering the university with transfer credit for ENGL 1200 have satisfied the foundations curriculum requirement in the area of English. Such students are still required to complete a total of 12 semester hours of credit in writing intensive courses. All second degree students will be required to complete at least three semester hours of writing intensive course work in the major. Writing intensive courses/sections of courses are identified each semester in the course schedule listing and will be designated WI on the student’s transcript. A complete listing of courses approved as writing intensive may be found at the University Writing Program Web site [www.ecu.edu/writing](http://www.ecu.edu/writing). A course will transfer into ECU as WI under two conditions. The course must either be a writing intensive course in a writing across the curriculum program at the university or college where it was taken, and/or the course must have the words “writing” or “communication” (e.g., “Writing for Business and Industry” or “Business Communications”) in the course title. Courses meeting either of these two criteria will be accepted as WI, and count as writing intensive for ECU degree requirements.

#### Domestic and Global Diversity Requirement

**Students enrolling at East Carolina University are required to complete two three-hour diversity courses: one course with a domestic diversity (USA) focus and one with a global diversity focus. Courses that address diversity provide opportunities for students to learn about the beliefs, values and achievements of people other than those of their own age, ethnicity, culture, national origin, ability, religion, sexual orientation, and gender identity. These courses also provide opportunities to examine problems that may arise from differences, and opportunities to learn how to deal constructively with these issues.**

**Courses receiving Domestic Diversity credit are designated as (DD) in the catalog course description; courses receiving Global Diversity credit are designated as (GD) in the catalog course description. Courses that transfer to ECU as equivalent to an ECU course that is approved for diversity credit receive diversity credit. Transfer courses that are not equivalent to existing ECU diversity courses may be approved for diversity credit by the Foundations Curriculum and Instructional Effectiveness Committee.**

#### Domestic Diversity Course Goals

- 1. Students understand problems that arise in the USA from differences in age, ethnicity, culture, national origin, ability, religion, sexual orientation, and gender identity in the**

context of their historical and contemporary causes and effects, including attempts to resolve these problems.

2. Students demonstrate the ability to use critical thinking skills to evaluate from different perspectives domestic problems arising from differences in age, ethnicity, culture, national origin, ability, religion, sexual orientation, and gender identity.

### **Global Diversity Course Goals**

1. Students understand how cultural beliefs and values shape people's perceptions and impact global decisions and actions.
2. Students apply critical thinking skills to evaluate global issues and events from multiple perspectives.

### **Cultural Diversity Requirement**

~~Each academic unit will ensure that its majors complete at least one course which exposes them to cultural diversity. Courses which meet this requirement will be designated by the respective unit.~~

### **Cognate and Professional Course Requirements**

Many baccalaureate programs have requirements in addition to course work in foundations curriculum, in the major field, and in the minor field. These additional requirements may be labeled cognate courses or professional courses required for teacher certification (see requirements for degree in section 8). Cognates, minor courses, and courses used for the second major may be used to satisfy foundations curriculum requirements, except where prohibited. Professional courses required for teacher certification may not be used to satisfy foundations curriculum requirements.

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## **Faculty Senate Agenda February 26, 2013 Attachment 5.**

### **ADMISSIONS AND RETENTION POLICIES COMMITTEE REPORT** Policy on Awarding Undergraduate Degrees with Distinction

#### Introduction

On September 27, 2012, Mark Sprague, Chair of the Faculty, assigned the Admission and Retention Policies Committee to "review current graduation policies and consider how they may unfairly disqualify students engaged in online learning to graduate with honors." After reviewing this policy, the Admission and Retention Policies Committee recommends that the current ECU Policy on Degrees with Distinction (<http://www.ecu.edu/cs-acad/registrar/GraduationHonors.cfm>) be retained as is.

#### Current Policy

The current ECU policy on awarding undergraduate degrees with distinction can be found in the University Undergraduate Catalog, in the section titled: Undergraduate Studies: Academic Advisement, Progression and Support Services: Degrees with Distinction. This policy includes the requirement that "The student must complete through enrollment in East Carolina University at least one-half the minimum number of hours required for the degree." The policy does not distinguish between online credit hours and those taken on campus.

This stipulation has resulted in a number of appeals over the years from graduating transfer students who compiled excellent academic records but did not earn at least half of their credits while enrolled

at ECU. The Admission and Retention Policies Committee examined this question in 2005 and again in 2011, each time deciding against recommending a change.

#### Committee Analysis

After receiving Dr. Sprague's charge, the committee discussed the issue of the minimum number of ECU credit hours required to graduate with distinction at our October 2012 and January 2013 meetings. At our January meeting, we decided to study the policies of ECU's peer institutions and select UNC-system institutions regarding minimum credit hours for awarding such honors. The following chart shows the minimum semester hours in residence required by each institution in order to earn a degree with distinction:

Ohio University	30 hours
Florida International University	40 hours
Virginia Commonwealth University	45 hours
Wright State University	45 hours
UNC-Greensboro	45 hours
UNC-Charlotte	48 hours
University of North Dakota	50 hours
Appalachian State University	4 semesters full time OR 58 hours
Texas Tech University	1/2 of degree credit
Virginia Tech University	60 hours
Old Dominion University	60 hours
University of Missouri at Kansas City	60 hours
University of Louisville	60 hours
Northern Illinois University	60 hours
University of Buffalo	60 hours
University of South Carolina	60 hours
University of Wisconsin – Milwaukee	60 hours

*In all cases, semester hours are being reported even if the university listed is on a quarter system. Some schools have provisions for including transfer hours (using expanded calculations) and some schools distinguish between pass/fail or other special courses, such as practicum hours, but these are not listed above.*

Based on the above thresholds for achieving distinction, our policy is in line with our peer institutions' policies. **Therefore, the Admissions and Retention Policies Committee recommends leaving the current policy unchanged. The committee encourages individual programs or departments to explore their own departmental honors to recognize high achieving students who do not meet ECU's requirements for degrees with distinction.**

**Faculty Senate Agenda**  
**February 26, 2013**  
**Attachment 6.**

**FACULTY GOVERNANCE COMMITTEE REPORT**

Proposed Revisions to the *ECU Faculty Manual*, Part VII, Faculty Research and Scholarship, Section III. Regulation on Research Conduct

The proposed text replaces the current text in Part VII, Section III. entitled Regulation on Research Conduct (*Interim Regulation 06.19.12, effective July 13, 2012*).

“SECTION III. Ethics and Conduct in Research, Creative Activity, and Scholarship

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- I. Introduction
- II. Definitions
- III. Rights and Responsibilities
- IV. General Policies and Principles
- V. Conducting the Assessment and Inquiry
- VI. The Inquiry Report
- VII. Conducting the Investigation
- VIII. The Investigation Report
- IX. Completion of Cases; Reporting Premature Closures
- X. Institutional Administrative Actions
- XI. Other Considerations

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I. Introduction

A. General Policy

All individuals associated with East Carolina University, including, but not limited to faculty, staff, postdoctoral scholars, and students, have the responsibility to seek honestly and to promulgate ethically the truth in all phases of work. This responsibility governs not only the production and dissemination of research and creative activities, but also all applications for funding, reports to funding agencies, and teaching and publication of teaching materials.

B. Scope

This policy applies to allegations of research misconduct (fabrication, falsification, or plagiarism) involving individuals associated with East Carolina University, including, but not limited to, faculty, staff, postdoctoral scholars, and students. This policy does not apply to authorship or collaboration disputes [see Part VII, Section II (VI)].

II. Definitions

A. Research means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Creative Activity refers to scholarship of research, scholarship of creative activity/innovation, and the scholarship of engagement and/or outreach, as defined in the *ECU Faculty Manual* Part VII Section I. For the purposes of this policy, Research includes all basic, applied, and demonstration research in all academic and scholarly fields. Research and creative activity fields include, but are not limited to: the

arts, the basic sciences, liberal arts, applied sciences, social sciences, clinical sciences, the professions, and research involving human subjects or animals.

- B. Research and Creative Activity Misconduct (hereinafter misconduct) is defined as fabrication of results, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting the results. Research misconduct does not include honest error or differences of opinion.
- C. Fabrication of results is making up data or results and recording or reporting them.
- D. Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record. The research record is the record of data or results that embody the facts resulting from the research inquiry and includes, but is not limited to research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, books, dissertations, and journal articles.
- E. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- F. Allegation means a disclosure of possible misconduct through any means of communication. The disclosure may be a written or oral statement or other communication to an ECU administrator or Research Integrity Officer (RIO) (see L. of this section).
- G. Complainant means a person who in good faith makes an allegation of misconduct. There may be more than one Complainant in a given case.
- H. Respondent means a person against whom is made an allegation of misconduct. There may be more than one Respondent in a given case.
- I. Good faith as applied to a complainant or witness means having a belief in the truth of one's allegation or testimony. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping an institution meet its responsibilities under this definition. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.
- J. Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.
- K. Research Record means the record of data or results that embody the facts resulting from research and creative activity, including but not limited to, research proposals, laboratory records both physical and electronic, progress reports, abstracts, theses, dissertations, oral presentations, internal reports, journal articles, creative works, and any documents and materials provided to a sponsoring agency having jurisdiction and authority or an institutional official by a respondent in the course of the research misconduct proceeding. A research record also includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports, laboratory notebooks, notes, correspondence, videos, photographs, X-ray film, slides, biological materials, computer files and printouts, manuscripts and publications, equipment use logs,

laboratory procurement records, animal facility records; human and animal subject protocols, consent forms, medical charts, and human subject research files.

L. Research Integrity Officer (RIO) is the institutional official responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct, are covered by law, regulation, or research sponsor policy, and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified; (2) overseeing inquiries and investigations; and (3) the other responsibilities described in this policy. The RIO for ECU is the Director of the Office of Research Compliance Administration.

M. Deciding Official (DO) means the institutional official who makes final determinations on allegations of research misconduct. The Deciding Official will not be the same individual as the Research Integrity Officer and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. A DO's appointment of an individual to assess allegations of research misconduct, or to serve on an inquiry or investigation committee, is not considered to be direct prior involvement. The DO for ECU is the Vice Chancellor for Research and Graduate Studies. In the event that the Vice Chancellor for Research and Graduate Studies has a conflict of interest for a particular case then the Chancellor shall appoint a designee as the DO for that particular case.

### III. Rights and Responsibilities

#### A. Research Integrity Officer

The Research Integrity Officer (RIO) will have primary responsibility for implementation of this policy. These responsibilities include the following duties related to misconduct proceedings:

1. Consult confidentially with persons uncertain about whether to submit an allegation of misconduct;
2. Receive allegations of misconduct;
3. Assess each allegation of misconduct in accordance with Section 5.1 of this policy to determine whether it falls within the definition of misconduct and warrants an inquiry;
4. As necessary, take interim action and notify sponsors of special circumstances, in accordance with Section 4.6 of this policy;
5. Sequester data or other products of scholarly activities and evidence pertinent to the allegation of misconduct in accordance with Section 5.3. of this policy, and maintain it securely in accordance with this policy and with applicable law and regulation;
6. Provide confidentiality to those involved in the misconduct proceeding as required by applicable law and university policy;
7. Notify the respondent and provide opportunities for him/her to review/ comment/respond to allegations, evidence, and committee reports in accordance with III.(C) of this Section;
8. Inform respondents, complainants, and witnesses of the procedural steps in the misconduct proceeding;
9. Ensure that the Deciding Official appoints the chair and members of the inquiry and investigation committees, ensure that those committees are properly staffed, that the members are without conflicts, and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
10. Determine whether each person involved in handling an allegation of misconduct has any unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the misconduct proceeding;
11. In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and

committee members and to counter potential or actual retaliation against them by respondents or other institutional members;

12. Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of misconduct;
13. Notify and make reports to sponsoring agencies as required by applicable law or regulation;
14. Take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of corrective actions; and
15. Maintain records of the misconduct proceeding and make them available to sponsoring agencies as appropriate under Section 8.4 of this policy.

#### B. Complainant

The Complainant is responsible for making allegations in good faith, maintaining confidentiality (as defined in IV C), and cooperating with the inquiry and investigation. As a matter of good practice, the complainant should be interviewed at the inquiry stage and given the transcript or recording of the interview for correction.

The RIO may provide to the complainant for comment: (1) relevant portions of the inquiry report (within a timeframe that permits the inquiry to be completed within sixty (60) calendar days of its initiation, unless an extension of time is granted in accordance with the terms of this policy); and (2) relevant portions of the draft report of the investigation. Any comments on the draft investigation report must be submitted within thirty (30) calendar days of the date on which the complainant received the draft report. The University must consider any comments made by the complainant on the draft investigation report and include those comments in the final investigation report. See IV.D. of this Section for rights and protections of the Complainant.

#### C. Respondent

1. The Respondent is responsible for maintaining confidentiality (as defined in IV C) and cooperating with the conduct of an inquiry and investigation. The Respondent is entitled to:
  - a. A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an inquiry;
  - b. An opportunity to comment on the inquiry report and have his/her comments attached to the report;
  - c. Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of, or refers to this policy;
  - d. Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (usually within thirty (30) calendar days after the institution decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;
  - e. Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;
  - f. Have interviewed during the investigation any witness who has been reasonably identified by the Respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and
  - g. Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based, and be notified that any comments must be submitted within thirty (30) calendar days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.

2. The Respondent should be given the opportunity to admit that misconduct of research or creative activity occurred and that he/she committed the misconduct. With the advice of the RIO and/or other institutional officials, the Deciding Official may terminate the institution's review of an allegation that has been admitted, if the institution's acceptance of the admission and any proposed settlement is approved by any sponsoring agency having authority and jurisdiction. See Part IV Section D of this Section on rights and protections of the Respondent.

D. Deciding Official

1. The DO will receive the inquiry report and after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted. Any finding that an investigation is warranted must be made in writing by the DO and, where required by applicable law or regulation, must be provided to any sponsoring agency with authority and jurisdiction, together with a copy of the inquiry report, within thirty (30) calendar days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least seven (7) years after termination of the inquiry, so that any sponsoring agency with authority and jurisdiction may assess the reasons why the institution decided not to conduct an investigation.
2. The DO will receive the investigation report and, may request all other associated documentation, after consulting with the RIO and/or other institutional officials, decide the extent to which he/she accepts the findings of the investigation and, if research misconduct is found, refer the matter to the appropriate Vice Chancellor to decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative actions are provided to any sponsoring agency with jurisdiction and authority, as required by law or regulation.

IV. General Policies and Principles

A. Responsibility to Report Misconduct

1. All individuals associated with ECU, including, but not limited to: faculty, staff, postdoctoral scholars, and students at any level, will report observed, suspected, or apparent misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of misconduct, he or she may meet with or contact the RIO to discuss the suspected misconduct informally, which may include discussing it hypothetically. If the circumstances described by the individual do not meet the definition of misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem, if any.
2. At any time, an institutional member may have discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

B. Cooperation with Misconduct Proceedings

All individuals associated with ECU, including, but not limited to, faculty, staff, postdoctoral scholars and students, will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. These individuals, including Respondents, have an obligation to provide evidence relevant to misconduct allegations to the RIO or other institutional officials.

C. Confidentiality

The RIO shall: (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which human research participants might be identified to those who need to know in order to carry out a

research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that any person and/or entity receiving information about the case does not make any further disclosure of identifying information.

D. Protecting complainants, witnesses, and committee members

Individuals associated with ECU, including, but not limited to: faculty, staff, postdoctoral scholars, and students, may not retaliate in any way against complainants, witnesses, or committee members. Any such retaliation is itself serious, and shall be subject to sanction. Any alleged or apparent retaliation against complainants, witnesses or committee members should be immediately reported to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

E. Protecting the Respondent and Use of Legal Counsel

1. As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical effort to protect or restore the reputation of persons alleged to have engaged in misconduct, but against whom no finding of misconduct is made.
2. During the misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided for in this policy. Respondents may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the personal advisor or legal counsel to interviews or meetings on the case. The role of the respondent's legal counsel is restricted to advising the respondent(s) and he/she may not act in a representative capacity or otherwise actively participate in interviews, meetings, or hearings.
3. The University shall provide legal counsel to assist the RIO, DO, Inquiry Panel, and Investigation Committee. The role of counsel is to advise and not to act in a representative capacity or otherwise actively participate in interviews, meetings, or hearings; provided, however, University counsel may be present at such interviews, meetings, or hearings, and must be present whenever respondent's legal counsel is present.

F. Interim Administrative Actions

1. Throughout the misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, animal health, sponsor funds, equipment, or the integrity of the sponsored research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and any sponsoring agency with jurisdiction and authority, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of equipment or sponsor funds, freezing or limiting access to fund accounts, reassignment of personnel or of the responsibility for the handling of human research participants or animal research subjects, equipment or sponsor funds, additional review of research data or creative activity products, or delaying publication.
2. The RIO shall, at any time during a misconduct proceeding, notify any sponsoring agency with jurisdiction and authority immediately if he/she has reason to believe that any of the following conditions exist:
  - a. Health or safety of the public is at risk, including an immediate need to protect human participants or animal subjects;
  - b. Resources or interests of sponsor are threatened;
  - c. Research or creative activities should be suspended;
  - d. There is a reasonable indication of possible violations of civil or criminal law;
  - e. Action is required to protect the interests of those involved in the misconduct proceeding;
  - f. The misconduct proceeding may be made public prematurely and action may be necessary to safeguard evidence and protect the rights of those involved; or

g. The scholarly community or the public should be informed.

## V. Conducting the Assessment and Inquiry

### A. Assessment of Allegations

1. Upon receiving an allegation of misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified and whether the allegation falls within the definition of misconduct. An inquiry must be conducted if these criteria are met.
2. The assessment period should be brief, concluded within a reasonable time period as warranted by the nature of the allegations, typically within seven (7) to twenty-one (21) calendar days. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, copy as warranted, and sequester all records and evidence (see II. (K.)) needed to conduct the misconduct proceeding, as provided in V.(C.) of this Section.
3. If the criteria required to investigate are not met, the RIO is responsible for preparing a final report to be distributed to the respondent, complainant, and the DO within thirty (30) calendar days.

### B. Initiation and Purpose of the Inquiry

If the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

### C. Notice to Respondent; Sequestration of Research Records and Evidence

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the misconduct proceeding. The RIO will inventory the records and evidence and sequester them in a secure manner. There may be exceptions where the records or evidence encompass scientific instruments (or other tools or equipment essential to the research or creative activity in question) which are shared by a number of users. In those cases, custody of the records may be limited to copies of the data or evidence on or recorded in such instruments, so long as copies can be made substantially equivalent to the evidentiary value of the equipment itself. The RIO will provide a receipt of sequestered items to the respondent(s) or other individuals who have information relating to the inquiry. The RIO may consult with any sponsoring agency with jurisdiction and authority for advice and assistance in this regard.

### D. Appointment of the Inquiry Panel

The DO, in consultation with the RIO and other institutional officials as appropriate, will appoint an Inquiry Panel of at least three individuals, as soon after the initiation of the inquiry as is practical. The majority of the committee shall be faculty without administrative appointment. The Inquiry Panel must consist of individuals who have no unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific or other relevant expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. The committee members may

be selected from inside or outside the University as warranted. The respondent, once known, will be notified in writing of the proposed committee membership and may object to a proposed member based upon a personal, professional, or financial conflict of interest. Any such objections must be submitted to the RIO no more than ten (10) calendar days from the date of the notification. The RIO will make the final determination of whether a conflict exists.

#### E. Charge to the Committee and First Meeting

1. The RIO will prepare a charge for the Inquiry Panel that:
  - a. Sets forth the time for completion of the inquiry;
  - b. Describes the allegation(s) and any related issues identified during the allegation assessment;
  - 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 misconduct definitely occurred or who was or were responsible;
  - d. States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of misconduct; and, (2) the allegation(s) may have substance, based on the committee's review during the inquiry.
  - e. Informs the Inquiry Panel that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and applicable law or regulation.
2. At the committee's first meeting, the RIO 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 inquiry, and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.

#### F. Inquiry Process

The Inquiry Panel may interview the complainant, the respondent and key witnesses as well as examining relevant research records and materials. Then the Inquiry Panel will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this policy. The scope of the inquiry is not required to, and does not normally, include deciding whether misconduct definitely occurred, determining definitely who committed the misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, as required by applicable law or regulation, the institution shall promptly consult with any sponsoring agency with jurisdiction and authority, to determine the next steps that should be taken (See IX. of this Section).

#### G. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within sixty (60) calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60 calendar day period. The respondent will be notified in writing of the extension.

### VI. The Inquiry Report

#### A. Elements of the Inquiry Report

1. A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of misconduct; (3) the identification of any sponsor support, including, for example, grant numbers, grant applications, contracts and publications; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant.
2. Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the Inquiry Panel. The inquiry report should include: the names and titles of the committee members and experts who conducted the inquiry; a summary of the inquiry process used; a list of the records and other evidence reviewed; summaries of any interviews; and whether any other actions should be taken if an investigation is not recommended.

B. Notification to the Respondent and Complainant and Opportunity to Comment

1. The RIO shall notify the respondent and the complainant whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment(s) usually within fourteen (14) calendar days, and include a copy of or refer to this policy. The complainant will receive only a copy of the portions of the draft inquiry report that address the claimant's role and opinions in the investigation for comment. The complainant shall execute in advance a written confidentiality agreement in a form approved by the Office of the University Attorney as a condition for access to the report.
2. Any comments that are submitted by the respondent and the claimant, respectively, will be attached to the final inquiry report. Based on the comments, the Inquiry Panel may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.

C. Institutional Decision and Notification

1. Decision by Deciding Official

The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination.

2. Notification to External Sponsoring Agencies

Within thirty (30) calendar days of the DO's decision that an investigation is warranted, as required by applicable law or regulation, the RIO will provide any sponsoring agency with authority and jurisdiction with the DO's written decision and a copy of the inquiry report. The RIO will also notify those institutional officials who need to know of the DO's decision. As required by applicable law or regulation, the RIO must provide the following information to such sponsoring agency upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the allegations to be considered in the investigation.

3. Documentation of Decision Not to Investigate

If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for seven (7) years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by sponsoring agencies with authority and jurisdiction of the reasons why an investigation was not conducted. These documents must be provided to such agencies upon request.

VII. Conducting the Investigation

A. Initiation and Purpose

The investigation must begin within thirty (30) calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials, potential harm to human participants or animal subjects, the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation must be set forth in an investigation report.

**B. Notifying Respondent; Sequestration of Research Records**

1. As required by applicable law or regulation, on or before the date on which the investigation begins, the RIO must: (1) notify any sponsoring agency with jurisdiction and authority of the decision to begin the investigation and provide such sponsoring agency a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.
2. The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the misconduct proceedings that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the University's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

**C. Appointment of the Investigation Committee**

The DO, in consultation with the RIO and other institutional officials as appropriate, will appoint an investigation committee of at least five (5) individuals, as soon after the beginning of the investigation as is practical, preferably within ten calendar days. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific or other relevant expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. The majority of the committee should be faculty without administrative appointment. Individuals appointed to the investigation committee may also have served on the Inquiry Panel. When necessary to secure the necessary expertise or to avoid conflicts of interest, the DO may select committee members from outside the University. The respondent will be notified of the proposed committee membership and given an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest. If so, the respondent must submit objections in writing to the RIO no more than ten (10) calendar days from the date of the notification. The RIO will make the final determination of whether a conflict exists.

**D. Charge to the Committee and the First Meeting**

1. Charge to the Committee - The RIO will define the subject matter of the investigation in a written charge to the committee that:
  - a. Describes the allegations and related issues identified during the inquiry;
  - b. Identifies the respondent(s);
  - c. Informs the committee that it must conduct the investigation as prescribed in VII.(E) of this Section;
  - d. States the following: *“Research and Creative Activity Misconduct (hereinafter misconduct)”*

*is defined as fabrication of results, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting the results. Research misconduct does not include honest error or differences of opinion.”*

- e. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, misconduct occurred and, if so, the type and extent of it and who was responsible;
- f. Informs the committee that in order to determine that the respondent committed misconduct it must find that a preponderance of the evidence establishes that: (1) misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the misconduct is a significant departure from accepted practices of the relevant community; and (3) the respondent committed the misconduct intentionally, knowingly, or recklessly; and
- g. Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and applicable law or regulation.

## 2. First Meeting

The RIO will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this policy and any applicable federal or state law or regulation governing the investigation. The RIO will be present or available throughout the investigation to advise the committee as needed.

## E. Investigation Process

The investigation committee and the RIO must:

1. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all records and evidence relevant to reaching a decision on the merits of each allegation;
2. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
3. Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
4. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible misconduct, and continue the investigation to completion.

## F. Time for Completion

The investigation is to be completed within one-hundred twenty (120) calendar days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and, as required by applicable law or regulation, sending the final report to any sponsoring agency with jurisdiction and authority. However, if the RIO determines that the investigation will not be completed within this time period, as required by applicable law or regulation, he/she will submit to any sponsoring agency with jurisdiction and authority a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with such agency, if the agency grants the request for an extension and directs the filing of such reports. If no sponsoring agency is involved, any request for extension of time must be approved in writing by the DO and the respondent notified in writing of such approval.

## VIII. The Investigation Report

### A. Elements of the Investigation Report

The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:

1. describes the nature of the allegation of misconduct, including identification of the respondent;
2. describes and documents any relevant external sponsor support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing the sponsor support;
3. describes the specific allegations of misconduct considered in the investigation;
4. includes the University policies and procedures under which the investigation was conducted;
5. identifies and summarizes the records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
6. includes a statement of findings for each allegation of misconduct identified during the investigation. Each statement of findings must: (1) identify whether the misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) 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 the act in question was not misconduct but was instead an honest error or difference of opinion; (3) identify the specific sponsor support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with any sponsoring agencies.

### B. Comments on the Draft Report and Access to Evidence

#### 1. Respondent

The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed thirty (30) calendar days from the date he/she received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report.

#### 2. Complainant

The RIO must give the complainant a copy of the portions of the draft investigation report that address the claimant's role and opinions in the investigation for comment. The complainant will be allowed thirty (30) calendar days from the date he/she received the draft report to submit comments to the RIO. The complainant's comments must be included and considered in the final report. The complainant shall execute in advance a written confidentiality agreement in a form approved by the Office of the University Attorney as a condition for access to the report.

#### 3. Confidentiality

In distributing the draft report, or portions thereof, to the respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality.

### C. Decision by Deciding Official

1. The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's(s') comments are included and considered, and transmit the final investigation report to the DO, who will determine and state in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted

findings of research misconduct. If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.

2. When a final decision on the case has been reached, the RIO will normally notify both the respondent and the complainant in writing. After informing ORI, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which relevant reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

#### D. Notice of Institutional Findings and Actions

In accordance with applicable law or regulation, unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation, submit the following to any sponsoring agency with jurisdiction and authority: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found scholarly misconduct and, if so, who committed the research misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

#### E. Maintaining Records for Review by Sponsoring Agencies

In accordance with applicable law or regulation, the RIO must maintain and provide to any sponsoring agency with jurisdiction and authority upon request records of misconduct proceedings. Unless custody has been transferred to the sponsoring agency or that agency has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven (7) years after completion of the proceeding or the completion of any sponsoring agency proceeding involving the research misconduct allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by the sponsoring agency to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation.

#### IX. Completion of Cases; Reporting Premature Closures to Sponsoring Agencies

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. In accordance with applicable law or regulation, the RIO must notify any sponsoring agency with jurisdiction and authority in advance if there are plans to close a case at the inquiry or investigation stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct at the investigation stage, which must be reported to the sponsoring agency, as prescribed in this policy.

#### X. Institutional Administrative Actions

If the DO determines that misconduct is substantiated by the findings, he or she will refer the case to the appropriate Vice Chancellor to decide on the administrative actions to be taken, after consultation with the RIO, the DO, and respective dean and director or chair. The administrative actions may include:

- A. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
- B. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
- C. Restitution of funds to the grantor agency as appropriate; and
- D. Other action appropriate to the research misconduct, including, but not limited to, the imposition of sanctions, up to and including termination from employment.

Respondent may appeal imposition of sanctions through the appropriate appellate committee as described in the *ECU Faculty Manual*, Part IX, Section I Tenure and Promotion Policies and Procedures of East Carolina University or, if discharge or serious sanctions are not imposed, through *ECU Faculty Manual*, Part XII, Section I Faculty Grievance Policies and Procedures.

#### XI. Other Considerations

##### A. Termination or Resignation Prior to Completing Inquiry or Investigation

- 1. The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the University's responsibilities to investigate the alleged misconduct.
- 2. If the respondent, without admitting to the misconduct, elects to resign his or her position after the University receives an allegation of misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

##### B. Restoration of the Respondent's Reputation

Following a final finding of no misconduct, including concurrence of any sponsoring agency with jurisdiction and authority where required by law or regulation, the institution must undertake reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of misconduct was previously publicized, and expunging all reference to the misconduct allegation from the respondent's personnel file. Any actions by the RIO to restore the respondent's reputation should first be approved by the DO.

##### C. Protection of the Complainant, Witnesses and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

D. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the complainant's allegations of misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith he/she will refer the matter to the appropriate Vice Chancellor to determine whether any administrative action should be taken against the person who failed to act in good faith.

E. Other Considerations

Respondent may appeal imposition of sanctions through the appropriate appellate committee as described in the *ECU Faculty Manual*, Part IX, Section I Tenure and Promotion Policies and Procedures of East Carolina University or, if discharge or serious sanctions are not imposed, through *ECU Faculty Manual*, Part XII, Section I Faculty Grievance Policies and Procedures.

Related Policies:

UNC Policy Manual 500.7

ECU Academic Integrity Policy -ECU Faculty Manual Part VI (Section II)

Additional References:

National Science Foundation Research Misconduct Regulation 45 CFR 689

Public Health Service Research Misconduct Regulation 42 CFR 93

Research Compliance Administration Website”

**SECTION III**

~~Regulation on Research Conduct~~

~~(Interim Regulation 06.19.12, effective July 13, 2012)~~

~~PRR Subject: Research~~

~~**Authority: Chancellor** ([Memo referencing interim regulation](#))~~

~~**History: First Issued: INSERT DATE. Last revised: June 19, 2012**~~

~~**Related Policies:**~~

~~[UNC Policy Manual 500.7](#)~~

~~[ECU Academic Integrity Policy- ECU Faculty Manual Part VII \(Section II\)](#)~~

~~**Additional References:**~~

~~[National Science Foundation Research Misconduct Regulation 45 CFR 689](#)~~

~~[Public Health Service Research Misconduct Regulation 42 CFR 93](#)~~

~~[Research Compliance Administration Website](#)~~

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1. Introduction

1.1. General Policy

All individuals associated with East Carolina University, including, but not limited to faculty, staff, postdoctoral scholars, and students, have the responsibility to seek honestly and to promulgate ethically the truth in all phases of work. This responsibility governs not only the production and dissemination of research and creative activities, but also all applications for funding, reports to funding agencies, and teaching and publication of teaching materials.

1.2. Scope

This regulation applies to allegations of research misconduct (fabrication, falsification, or plagiarism) involving individuals associated with East Carolina University, including, but not limited to, faculty, staff, postdoctoral scholars, and students. This regulation does not apply to authorship or collaboration disputes.

2. Definitions

- 2.1. Research means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. For the purposes of this Regulation, Research includes all basic, applied, and demonstration research in all academic and scholarly fields. Research fields include, but are not limited to, the arts, the basic sciences, liberal arts, applied sciences, social sciences, clinical sciences, the professions, and research involving human subjects or animals.
- 2.2. Research Misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting the results. Research misconduct does not include honest error or differences of opinion.
- 2.3. Fabrication is making up data or results and recording or reporting them.
- 2.4. Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record. The research record is the record of data or results that embody the facts resulting from the research inquiry and includes, but is not limited to research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, books, dissertations, and journal articles.
- 2.5. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- 2.6. Allegation means a disclosure of possible research misconduct through any means of communication. The disclosure may be a written or oral statement or other communication to an ECU administrator or RIO.
- 2.7. Complainant means a person who in good faith makes an allegation of research misconduct. There may be more than one Complainant in a given case.
- 2.8. Respondent means a person against whom are made allegations of research misconduct. There may be more than one Respondent in a given case.
- 2.9. Good faith as applied to a complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have been based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the research misconduct

~~proceeding by carrying out the duties assigned impartially for the purpose of helping an institution meet its responsibilities under this definition. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.~~

~~2.10. Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.~~

~~2.11. Research Record—Research Record means the record of data or results that embody the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to a federal agency having jurisdiction and authority or an institutional official by a respondent in the course of the research misconduct proceeding. A research record also includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports, laboratory notebooks, notes, correspondence, videos, photographs, X-ray film, slides, biological materials, computer files and printouts, manuscripts and publications, equipment use logs, laboratory procurement records, animal facility records; human and animal subject protocols, consent forms, medical charts, and human subject research files.~~

~~2.12. Research Integrity Officer (RIO) is the institutional official responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct, are covered by law, regulation, or research sponsor policy, and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified; (2) overseeing inquires and investigations; and (3) the other responsibilities described in this Regulation. The RIO for ECU is the Director of the Office of Research Compliance Administration.~~

~~2.13. Deciding Official (DO) means the institutional official who makes final determinations on allegations of research misconduct. The Deciding Official will not be the same individual as the Research Integrity Officer and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. A DO's appointment of an individual to assess allegations of research misconduct, or to serve on an inquiry or investigation committee, is not considered to be direct prior involvement. The DO for ECU is the Vice Chancellor for Research and Graduate Studies. In the event that the Vice Chancellor for Research and Graduate Studies has a conflict of interest for a particular case then the Chancellor shall appoint a designee as the DO for that particular case.~~

### ~~3. Rights and Responsibilities~~

#### ~~3.1. Research Integrity Officer~~

~~3.1.1.—The RIO will have primary responsibility for implementation of this Regulation. These responsibilities include the following duties related to research misconduct proceedings:~~

~~3.1.1.1. Consult confidentially with persons uncertain about whether to submit an allegation of research misconduct;~~

~~3.1.1.2—Receive allegations of research misconduct;~~

~~3.1.1.3—Assess each allegation of research misconduct in accordance with Section 5.1 of this Regulation to determine whether it falls within the definition of research misconduct and warrants an inquiry;~~

~~3.1.1.4—As necessary, take interim action and notify sponsors of special circumstances, in accordance with Section 4.6 of this Regulation;~~

~~3.1.1.5—Sequester research data and evidence pertinent to the allegation of research misconduct in accordance with Section 5.3. of this Regulation and maintain it securely in accordance with this Regulation and applicable law and regulation;~~

~~3.1.1.6—Provide confidentiality to those involved in the research misconduct~~

- proceeding as required by applicable law and university policy;
- ~~3.1.1.7— Notify the respondent and provide opportunities for him/her to review/ comment/respond to allegations, evidence, and committee reports in accordance with Section 3.3. of this Regulation;~~
  - ~~3.1.1.8— Inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;~~
  - ~~3.1.1.9— Ensure that the Deciding Official appoints the chair and members of the inquiry and investigation committees, ensure that those committees are properly staffed, that the members are without conflicts, and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;~~
  - ~~3.1.1.10— Determine whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;~~
  - ~~3.1.1.11— In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other institutional members;~~
  - ~~3.1.1.12— Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of research misconduct;~~
  - ~~3.1.1.13— Notify and make reports to federal agencies as required by applicable law or regulation;~~
  - ~~3.1.1.14— Take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of corrective actions; and~~
  - ~~3.1.1.15— Maintain records of the research misconduct proceeding and make them available to federal agencies in accordance with Section 8.4 of this Regulation.~~

### ~~3.2. Complainant~~

~~The Complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. As a matter of good practice, the complainant should be interviewed at the inquiry stage and given the transcript or recording of the interview for correction. The RIO may provide to the complainant for comment: (1) relevant portions of the inquiry report (within a timeframe that permits the inquiry to be completed within sixty (60) calendar days of its initiation, unless an extension of time is granted in accordance with the terms of this Regulation); and (2) relevant portions of the draft investigation report. Any comments on the draft investigation report must be submitted within thirty (30) calendar days of the date on which the complainant received the draft report. The University must consider any comments made by the complainant on the draft investigation report and include those comments in the final investigation report. See Section 4.4 for rights and protections of the Complainant.~~

### ~~3.3. Respondent~~

~~3.3.1. The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The Respondent is entitled to:~~

~~3.3.1.1. A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an inquiry;~~

~~3.3.1.2. An opportunity to comment on the inquiry report and have his/her comments attached to the report;~~

~~3.3.1.3. Be notified of the outcome of the inquiry, and receive a copy of the inquiry~~

report that includes a copy of, or refers to this Regulation;

- ~~3.3.1.4. Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (usually within thirty (30) calendar days after the institution decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;~~
- ~~3.3.1.5. Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;~~
- ~~3.3.1.6. Have interviewed during the investigation any witness who has been reasonably identified by the Respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and~~
- ~~3.3.1.7. Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within thirty (30) calendar days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.~~

~~3.3.2. The Respondent should be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. With the advice of the RIO and/or other institutional officials, the Deciding Official may terminate the institution's review of an allegation that has been admitted, if the institution's acceptance of the admission and any proposed settlement is approved by any federal agency having authority and jurisdiction. See Section 4.4 for rights and protections of the Respondent.~~

#### ~~3.4. Deciding Official~~

- ~~3.4.1. The DO will receive the inquiry report and after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted. Any finding that an investigation is warranted must be made in writing by the DO and, where required by applicable law or regulation, must be provided to any federal agency with authority and jurisdiction, together with a copy of the inquiry report, within thirty (30) calendar days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least seven (7) years after termination of the inquiry, so that any federal agency with authority and jurisdiction may assess the reasons why the institution decided not to conduct an investigation.~~
- ~~3.4.2. The DO will receive the investigation report and, may request all other associated documentation, after consulting with the RIO and/or other institutional officials, decide the extent to which he/she accepts the findings of the investigation and, if research misconduct is found, refer the matter to the appropriate Vice Chancellor to decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative actions are provided to any federal agency with jurisdiction and authority, as required by law or regulation.~~

#### ~~4. General Policies and Principles~~

##### ~~4.1. Responsibility to Report Misconduct~~

- ~~4.1.1. All individuals associated with ECU, including, but not limited to, faculty, staff, postdoctoral scholars, and students, will report observed, suspected, or apparent~~

~~research misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO to discuss the suspected research misconduct informally, which may include discussing it hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem, if any.~~

~~4.1.2. At any time, an institutional member may have discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.~~

#### ~~4.2. Cooperation with Research Misconduct Proceedings~~

~~All individuals associated with ECU, including, but not limited to, faculty, staff, postdoctoral scholars and students, will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. These individuals, including Respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials.~~

#### ~~4.3. Confidentiality~~

~~The RIO shall: (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that any person and/or entity receiving information about the case does not make any further disclosure of identifying information.~~

#### ~~4.4. Protecting complainants, witnesses, and committee members~~

~~Individuals associated with ECU, including, but not limited to, faculty, staff, postdoctoral scholars, and students, may not retaliate in any way against complainants, witnesses, or committee members. These persons should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.~~

#### ~~4.5. Protecting the Respondent and Use of Legal Counsel~~

~~4.5.1. As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.~~

~~4.5.2. During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided for in this Regulation. Respondents may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the personal advisor or legal counsel to interviews or meetings on the case. The role of the respondent's legal counsel is restricted to advising the respondent(s) and he/she may not act in a representative capacity or otherwise actively participate in interviews, meetings, or hearings.~~

~~4.5.3. The University shall provide legal counsel to assist the RIO, DO, Inquiry Panel, and Investigation Committee. The role of counsel is to advise and not to act in a representative capacity or otherwise actively participate in interviews, meetings, or hearings; provided, however, University counsel may be present at such interviews, meetings, or hearings, and must be present whenever respondent's legal counsel is present.~~

#### ~~4.6. Interim Administrative Actions~~

~~4.6.1. Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, animal health, sponsor funds, equipment, or the integrity of the sponsored research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and any federal agency with jurisdiction and authority, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of equipment or sponsor funds, freezing or limiting access to fund accounts, reassignment of personnel or of the responsibility for the handling of equipment or sponsor funds, additional review of research data and results or delaying publication.~~

~~4.6.2. The RIO shall, at any time during a research misconduct proceeding, notify any federal agency with jurisdiction and authority immediately if he/she has reason to believe that any of the following conditions exist:~~

~~4.6.2.1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;~~

~~4.6.2.2. Federal resources or interests are threatened;~~

~~4.6.2.3. Research activities should be suspended;~~

~~4.6.2.4. There is a reasonable indication of possible violations of civil or criminal law;~~

~~4.6.2.5. Federal action is required to protect the interests of those involved in the research misconduct proceeding;~~

~~4.6.2.6. The research misconduct proceeding may be made public prematurely and federal agency action may be necessary to safeguard evidence and protect the rights of those involved; or~~

~~4.6.2.7. The research community or public should be informed.~~

#### ~~5. Conducting the Assessment and Inquiry~~

##### ~~5.1. Assessment of Allegations~~

~~5.1.1. Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified and whether the allegation falls within the definition of research misconduct. An inquiry must be conducted if these criteria are met.~~

~~5.1.2. The assessment period should be brief, concluded within a reasonable time period as warranted by the nature of the allegations, typically within seven (7) to twenty-one (21) calendar days. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, copy as warranted, and sequester all research records and evidence needed to conduct the research misconduct proceeding, as provided in paragraph 5.3 of this section.~~

##### ~~5.2. Initiation and Purpose of the Inquiry~~

~~If the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.~~

##### ~~5.3. Notice to Respondent; Sequestration of Research Records~~

~~At the time of or before beginning an inquiry, the RIO must make a good faith effort to~~

~~notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding; inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO will provide a receipt of sequestered items to the respondent(s) or other individuals who have information relating to the inquiry. The RIO may consult with any federal agency with jurisdiction and authority for advice and assistance in this regard.~~

#### ~~5.4. Appointment of the Inquiry Panel~~

~~The DO, in consultation with the RIO and other institutional officials as appropriate, will appoint an Inquiry Panel of at least three individuals, as soon after the initiation of the inquiry as is practical. The majority of the committee shall be faculty without administrative appointment. The Inquiry Panel must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific or other relevant expertise to evaluate the evidence and issues related to the allegation; interview the principals and key witnesses, and conduct the inquiry. The committee members may be selected from inside or outside the University as warranted. The respondent will be notified in writing of the proposed committee membership and may object to a proposed member based upon a personal, professional, or financial conflict of interest. Any such objections must be submitted to the RIO no more than ten (10) calendar days from the date of the notification. The RIO will make the final determination of whether a conflict exists.~~

#### ~~5.5. Charge to the Committee and First Meeting~~

~~5.5.1 The RIO will prepare a charge for the Inquiry Panel that:~~

~~5.5.1.1 Sets forth the time for completion of the inquiry;~~

~~5.5.1.2 Describes the allegation(s) and any related issues identified during the allegation assessment;~~

~~5.5.1.3 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 research misconduct definitely occurred or who was or were responsible;~~

~~5.5.1.4 States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; and, (2) the allegation(s) may have substance, based on the committee's review during the inquiry.~~

~~5.5.1.5 Informs the Inquiry Panel that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this Regulation and applicable law or regulation.~~

~~5.5.2 At the committee's first meeting, the RIO 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 inquiry, and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.~~

## ~~5.6. Inquiry Process~~

~~The Inquiry Panel may interview the complainant, the respondent, and key witnesses as well as examining relevant research records and materials. Then the Inquiry Panel will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this Regulation. The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, as required by applicable law or regulation, the institution shall promptly consult with any federal agency with jurisdiction and authority, if any, to determine the next steps that should be taken. See Section 9.~~

## ~~5.7. Time for Completion~~

~~The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within sixty (60) calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60 calendar day period. The respondent will be notified in writing of the extension.~~

## ~~6. The Inquiry Report~~

### ~~6.1. Elements of the Inquiry Report~~

~~6.1.1. A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the identification of any sponsor support, including, for example, grant numbers, grant applications, contracts and publications; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant.~~

~~6.1.2. Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the Inquiry Panel. The inquiry report should include: the names and titles of the committee members and experts who conducted the inquiry; a summary of the inquiry process used; a list of the research records reviewed; summaries of any interviews; and whether any other actions should be taken if an investigation is not recommended.~~

### ~~6.2. Notification to the Respondent and Complainant and Opportunity to Comment~~

~~6.2.1. The RIO shall notify the respondent and the complainant whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment(s) usually within fourteen (14) calendar days, and include a copy of or refer to this Regulation. The complainant will receive only a copy of the portions of the draft inquiry report that address the claimant's role and opinions in the investigation for comment. The complainant shall execute in advance a written confidentiality agreement in a form approved by the Office of the University Attorney as a condition for access to the report.~~

~~6.2.2. Any comments that are submitted by the respondent and the claimant, respectively, will be attached to the final inquiry report. Based on the comments, the Inquiry Panel may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.~~

### ~~6.3. Institutional Decision and Notification~~

#### ~~6.3.1. Decision by Deciding Official~~

The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination.

#### ~~6.3.2. Notification to External Federal Agencies~~

~~Within thirty (30) calendar days of the DO's decision that an investigation is warranted, as required by applicable law or regulation, the RIO will provide any federal agency with authority and jurisdiction with the DO's written decision and a copy of the inquiry report. The RIO will also notify those institutional officials who need to know of the DO's decision. As required by applicable law or regulation, the RIO must provide the following information to such federal agency upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the allegations to be considered in the investigation.~~

#### ~~6.3.3. Documentation of Decision Not to Investigate~~

~~If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for seven (7) years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by federal agencies with authority and jurisdiction of the reasons why an investigation was not conducted. These documents must be provided to such agencies upon request.~~

### ~~7. Conducting the Investigation~~

#### ~~7.1. Initiation and Purpose~~

~~The investigation must begin within thirty (30) calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials, potential harm to human subjects, the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation must be set forth in an investigation report.~~

#### ~~7.2. Notifying Respondent; Sequestration of Research Records~~

~~7.2.1. As required by applicable law or regulation, on or before the date on which the investigation begins, the RIO must: (1) notify any federal agency with jurisdiction and authority of the decision to begin the investigation and provide such federal agency a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.~~

~~7.2.2. The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the University's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same~~

procedures that apply during the inquiry.

### ~~7.3. Appointment of the Investigation Committee~~

~~The DO, in consultation with the RIO and other institutional officials as appropriate, will appoint an investigation committee of at least five (5) individuals, as soon after the beginning of the investigation as is practical. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific or other relevant expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. The majority of the committee should be faculty without administrative appointment. Individuals appointed to the investigation committee may also have served on the Inquiry Panel. When necessary to secure the necessary expertise or to avoid conflicts of interest, the DO may select committee members from outside the University. The respondent will be notified of the proposed committee membership and given an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest. If so, the respondent must submit objections in writing to the RIO no more than ten (10) calendar days from the date of the notification. The RIO will make the final determination of whether a conflict exists.~~

### ~~7.4. Charge to the Committee and the First Meeting~~

#### ~~7.4.1. Charge to the Committee~~

~~The RIO will define the subject matter of the investigation in a written charge to the committee that:~~

~~7.4.1.1 — Describes the allegations and related issues identified during the inquiry;~~

~~7.4.1.2 — Identifies the respondent(s);~~

~~7.4.1.3 — Informs the committee that it must conduct the investigation as prescribed in paragraph 7.5 of this section;~~

~~7.4.1.4 — Defines research misconduct;~~

~~7.4.1.5 — Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;~~

~~7.4.1.6 — Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this Regulation, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the research misconduct is a significant departure from accepted practices of the relevant research community; and (3) the respondent committed the research misconduct intentionally, knowingly, or recklessly; and~~

~~7.4.1.7 — Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this Regulation and applicable law or regulation.~~

#### ~~7.4.2. First Meeting~~

~~The RIO will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this Regulation and any applicable federal law or regulation governing the investigation. The RIO will be present or available throughout the investigation to advise the committee as needed.~~

### ~~7.5. Investigation Process~~

The investigation committee and the RIO must:

- 7.5.1. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;
- 7.5.2. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
- 7.5.3. Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
- 7.5.4. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

#### 7.6. Time for Completion

The investigation is to be completed within one hundred twenty (120) calendar days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and, as required by applicable law or regulation, sending the final report to any federal agency with jurisdiction and authority. However, if the RIO determines that the investigation will not be completed within this time period, as required by applicable law or regulation, he/she will submit to any federal agency with jurisdiction and authority a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with such agency, if the agency grants the request for an extension and directs the filing of such reports. If no federal agency is involved, any request for extension of time must be approved in writing by the DO and the respondent notified in writing of such approval.

### 8. The Investigation Report

#### 8.1. Elements of the Investigation Report

The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:

- 8.1.1. Describes the nature of the allegation of research misconduct, including identification of the respondent;
- 8.1.2. Describes and documents any relevant external sponsor support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing the sponsor support;
- 8.1.3. Describes the specific allegations of research misconduct considered in the investigation;
- 8.1.4. Includes the University policies and procedures under which the investigation was conducted;
- 8.1.5. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- 8.1.6. Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) 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 he or she did not engage in research misconduct because of honest error or a difference of

opinion; (3) identify the specific sponsor support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with any federal agencies.

## ~~8.2. Comments on the Draft Report and Access to Evidence~~

### ~~8.2.1. Respondent~~

~~The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed thirty (30) calendar days from the date he/she received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report.~~

### ~~8.2.2. Complainant~~

~~The RIO must give the complainant a copy of the portions of the draft investigation report that address the claimant's role and opinions in the investigation for comment. The complainant will be allowed thirty (30) calendar days from the date he/she received the draft report to submit comments to the RIO. The complainant's comments must be included and considered in the final report. The complainant shall execute in advance a written confidentiality agreement in a form approved by the Office of the University Attorney as a condition for access to the report.~~

### ~~8.2.3. Confidentiality~~

~~In distributing the draft report, or portions thereof, to the respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality.~~

## ~~8.3. Decision by Deciding Official~~

~~8.3.1. The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's(s') comments are included and considered, and transmit the final investigation report to the DO, who will determine in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.~~

~~8.3.2. When a final decision on the case has been reached, the RIO will normally notify both the respondent and the complainant in writing. After informing ORI, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which relevant reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.~~

## ~~8.4. Notice of Institutional Findings and Actions~~

~~In accordance with applicable law or regulation, unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation, submit the following to any federal agency with jurisdiction and authority: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found research misconduct and, if so, who committed the research misconduct; and (4)~~

a description of any pending or completed administrative actions against the respondent.

~~8.5. Maintaining Records for Review by Federal Agencies~~

~~In accordance with applicable law or regulation, the RIO must maintain and provide to any federal agency with jurisdiction and authority upon request records of research misconduct proceedings. Unless custody has been transferred to the federal agency or the federal agency has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven (7) years after completion of the proceeding or the completion of any federal agency proceeding involving the research misconduct allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by the federal agency to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation.~~

~~9. Completion of Cases; Reporting Premature Closures to Federal Agencies~~

~~Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. In accordance with applicable law or regulation, the RIO must notify any federal agency with jurisdiction and authority in advance if there are plans to close a case at the inquiry or investigation stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct at the investigation stage, which must be reported to the federal agency, as prescribed in this Regulation.~~

~~10. Institutional Administrative Actions~~

~~If the DO determines that research misconduct is substantiated by the findings, he or she will refer the case to the appropriate Vice Chancellor to decide on the appropriate actions to be taken, after consultation with the RIO and the DO. The administrative actions may include:~~

- ~~10.1. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;~~
- ~~10.2. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;~~
- ~~10.3. Restitution of funds to the grantor agency as appropriate; and~~
- ~~10.4. Other action appropriate to the research misconduct, including, but not limited to, the imposition of sanctions, up to and including termination from employment.~~

~~11. Other Considerations~~

~~11.1. Termination or Resignation Prior to Completing Inquiry or Investigation~~

~~11.1.1. The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the University's responsibilities to investigate the alleged research misconduct.~~

~~11.1.2. If the respondent, without admitting to the misconduct, elects to resign his or her position after the University receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the~~

allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

~~11.2. Restoration of the Respondent's Reputation~~

~~Following a final finding of no research misconduct, including concurrence of any federal agency with jurisdiction and authority, where required by law or regulation, the RIO must undertake reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the respondent's personnel file. Any institutional actions to restore the respondent's reputation should first be approved by the DO.~~

~~11.3. Protection of the Complainant, Witnesses and Committee Members~~

~~During the research misconduct proceeding and upon its completion, regardless of whether the institution determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.~~

~~11.4. Allegations Not Made in Good Faith~~

~~If relevant, the DO will determine whether the complainant's allegations of research misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith he/she will refer the matter to the appropriate Vice Chancellor to determine whether any administrative action should be taken against the person who failed to act in good faith.~~

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**Faculty Senate Agenda  
February 26, 2013  
Attachment 7.**

**FACULTY GOVERNANCE COMMITTEE REPORT**  
Formal faculty advice on revisions to IDEA Chair Survey

Below are links to both old and new IDEA Chair Survey forms, reports, and summary of the changes. Following a review of the material, the Faculty Governance Committee supports the revisions including the addition of two questions (20) *Ensuring the assessment of student learning outcomes is meaningful and ongoing* and (21) *Actively supporting student recruitment and retention efforts* but objects to (41) *Looks out for the personal welfare of individual faculty members*.

[Summary of comparisons](#) between Old and New versions of the IDEA Chair Survey

Revised (2012) [IDEA Chair Survey Form](#)

[Old IDEA Chair Survey Form](#)

Revised (2012) [Chair information](#) (completed by chairs)

[Old Chair information](#) (completed by chairs)

Revised [IDEA Feedback for Department Chair Report](#)

[Old IDEA Feedback for Department Chair Report](#)

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**Faculty Senate Agenda  
February 26, 2013  
Attachment 8.**

**RESEARCH/CREATIVE ACTIVITY GRANTS COMMITTEE REPORT**  
Formal Faculty Advice on Proposed University Patent Policy

(Additions are noted in **bold** print and deletions in ~~strikethrough~~.)

Authority: Board of Trustees

History: First Issued: March 1984. Last revised: August 27, 2012

Related Policies:

UNC Policy 500.2-Patent and Copyright Policies

UNC Policy 300.2.2-Conflicts of Interest and Commitment Affecting Faculty and Nonfaculty EPA Employees

UNC Code: Appendix I

ECU Faculty Manual Part VII, (III) – East Carolina University Copyright Policy

ECU Faculty Manual Appendix I. – Policy on Conflicts of Interest and Commitment

ECU Equity Acquisition Rule

Additional References:

U.S. Patent Laws 35 U.S.C. §§ 1-376

East Carolina University Patent Assignment Agreement

Contact for Info: Director, Office of Technology Transfer  
2200 South Charles Boulevard  
Greenville Centre Room 2400  
Mail Stop 163  
East Carolina University

## 1. Introduction

East Carolina University (the “University”) is dedicated to the pursuit of instruction, research, scholarship, engagement, innovation development and the extension of knowledge for the benefit of the public good in an environment that is open to collaboration and publication. Inventions, discoveries, and other intellectual assets may arise as a result of the conduct of these activities by University personnel, including faculty and other EPA employees, employees subject to the State Personnel Act (SPA), clinical support services (CSS) employees, emeritus faculty, adjunct faculty, visiting faculty or other visitors or volunteers using research facilities, post-doctoral employees, graduate students, and undergraduate students participating in research as employees or otherwise, and may qualify as intellectual property in the form of patents or copyrights. The Board of Governors of the University of North Carolina has determined that patenting and licensing of these intellectual property assets are consistent with the purposes and mission of the University of North Carolina. This Patent Policy is subject to and supplements the patent and copyright policies of the University of North Carolina.

## 2. Coverage

- 2.1. This Patent Policy applies to all faculty and other EPA employees, employees subject to the State Personnel Act (SPA), clinical support services (CSS) employees, emeritus faculty, adjunct faculty, visiting faculty or other visitors or volunteers using research facilities, post-doctoral employees, graduate students, and undergraduate students participating in research as employees or otherwise. The individuals subject to this Patent Policy are collectively referred to herein as “University Personnel.” This Patent Policy is a condition of employment of every employee of the University and attendance of every student at the University.
- 2.2. Upon prior written agreement between non-University persons or entities and the University, this policy may be applied to persons not associated with the University who make their inventions available to the University under circumstances where the further development and refinement of such inventions are compatible with the research program of the University.

## 3. Ownership

### 3.1. Patent Assignment Agreement

All University Personnel engaged in or who propose to engage in research or other activities that may result in an Invention subject to this Policy as part of their affiliation with East Carolina University shall agree to and execute the East Carolina University Patent Assignment Agreement.

University Personnel shall not: (1) enter into agreements with third parties (including but not limited to outside organizations) which would abrogate the University’s intellectual property rights and interests, and which would require use of University research resources; (2) violate the terms and conditions of any grant or contract to which the University is a party; nor (3) without prior authorization, use or associate the name, marks, and other indicia of the University or its administrative units or academic departments in connection with any Invention subject to this Patent Policy.

### 3.2. University Ownership of Inventions

*Invention* means an invention or discovery of any new and useful process, machine, manufacture, or composition of matter; or any new and useful improvement thereof, including, but not limited to, compounds, prototypes, biological materials, software, complex multimedia works and tangible research results, that is (1) patentable under the laws of the United States or any foreign country; (2) commercializable (through licensing or otherwise); (3) obligated under a sponsored research agreement or any other agreement to which East Carolina University is a party; or ~~(3)~~ **(4)** is created to support the administrative operations of the University.

Except as otherwise specified herein, the University owns all right, title and interest in and to any Invention or discovery or part thereof that (each a “University-Owned Invention”):

3.2.1. Results from research or other activities carried out at or under the auspices of East Carolina University; and/or

3.2.2. Is developed:

3.2.2.1. With the aid of the University’s resources or facilities, University Personnel;

and/or

3.2.2.2. Through funds administered by the University.

With respect to any Invention owned by the University, upon request, **the inventor(s)** shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the University or its assignees any or all rights to such Invention, including complete assignment of any patents or patent applications relating to the Invention.

**The Inventor(s)** hereby irrevocably assign to the University, all right, title and interest in and to Inventions and related patent applications and patents, and shall cooperate fully with the University in the preparation and prosecution of patent applications and patents.

### 3.3. Inventor(s) Ownership of Inventions

**“Inventor(s)” means an individual or individuals who contribute to an invention that is subject to this policy.** An inventor who is a University Personnel may own all right, title and interest in certain Inventions (each an “Inventor-Owned Invention”) under either of the two following circumstances:

3.3.1. If the subject matter of the Invention is outside the scope of the **Inventor’s/Inventors’** University activities (such activities including, but not limited to, the **Inventor’s/Inventors’** research, teaching, administrative, service, or permitted entrepreneurial activities) at the University, an Invention may be an Inventor-Owned Invention if it was made:

- (a) without the material use of University facilities, equipment, materials or resources,
- (b) without funds administered by the University, and
- (c) without interfering with the **Inventor’s/Inventors’** obligation to carry out all of his/her University responsibilities in a timely and effective manner.

3.3.2. If the subject matter of an Invention is within the scope of the **Inventor's/Inventors'** University activities (such activities including, but not limited to, the **Inventor's/Inventors'** research, teaching, administrative, service activities or permitted entrepreneurial activities) at the University, the Invention may be an Inventor-Owned Invention if it qualifies as an "external professional activity invention." An "external professional activity invention" means an Invention that:

- (a) meets the conditions set forth in section 1(a) through (c) above,
- (b) is made in the course of **Inventor's/Inventors'** external professional activities in compliance with the University's Policy on External Professional Activities of Faculty and Other Professional Staff (or any substitute or complementary policy),
- (c) is not based on or, if to be practiced, does not require the use of intellectual property owned by the University,
- (d) arises out of a specific scope of work defined in a written agreement between the **inventor(s)** and a third party, and
- (e) if such Invention is within the specific subject area of the **Inventor's/Inventors'** current and ongoing University research activities, such **inventor(s)** has/have received prior approval from his/her departmental chair, school dean, unit director or similar administrative officer to engage in such external research activity, and notice of such approval has been provided to the University's Office of Technology Transfer.

The University does not claim any rights in Inventor-Owned Inventions.

#### 4. Revenue Sharing

The University shall share revenue earned from technology transfer activities with the **inventor(s)** as specified in this section. Specific provisions of grants or contracts may govern rights and revenue distribution regarding inventions made in connection with sponsored research; consequently, revenues the University receives from such inventions may be exclusive of payments of royalty shares to sponsors or contractors. Moreover, the University may contract with outside persons or organizations for the obtaining, managing, and defending of patents. Any expenses incurred for the services of such persons or organizations, as well as any and all incremental expenses incurred by the University in obtaining and maintaining patents and/or in marketing, developing, and licensing and defending patents or licensable inventions, shall be deducted before the University distributes revenues as provided below.

The revenues that the University receives from a patent or invention shall be distributed as follows:

	1st \$1000 (Gross Receipts)	Next \$100,000 (Net Receipts)	Greater Than \$101,000 (Net Receipts)
<b>Inventor(s)</b>	100%	50%	40%

Department(s)	n/a	15%	15%
School/College(s)	n/a	5%	5%
Invention Management Fund	n/a	25%	30%
Division of Research & Graduate Studies	n/a	5%	10%

Applicable laws, regulations or provisions of grants or contracts may, however, require that a lesser share be paid to the **inventor(s)**. In the case of co-**inventors**, each percentage share described in this paragraph as due a sole inventor shall be subdivided equally among the co-**inventors** unless all the co-**inventors** provide the University a written instrument signed by each of them allocating ownership among them other than in equal shares. In no event shall the share payable to the **inventor(s)** in the aggregate by the University be less than 15% of gross royalties received by the University.

To the extent practicable and consistent with State and University budget policies, amounts allocated to the University pursuant to the above chart will be dedicated to support University scientific research, development, commercialization and education activities.

In the event that ~~the~~ **inventor(s)** leaves the University, either voluntarily or involuntarily, and the **inventor(s)** is entitled to receive compensation in accordance with this Policy, then the **inventor(s)** shall continue to be entitled to receive payments during the remaining term of the applicable license agreement. In the event of death of an **inventor(s)** who is entitled to receive compensation in accordance with this policy, then such payments will be paid to the **Inventor's/Inventors'** estate or as directed in accordance with a court approved action.

## 5. Sponsored Research

### 5.1. Government Sponsored Research

Patents on any invention conceived or first actually reduced to practice in the performance of work under the Federal funding agreement arising from research supported by the United States Government ("Subject Invention") may be controlled by the terms of the grants and contracts specified by the government agency pursuant to Federal law. Consistent with Federal law, the University may, within a reasonable time after disclosure to the U.S. government, elect to retain title to any Subject Invention. Also, the Federal government may receive title to any Subject Invention in which the University does not elect to retain rights or fails to elect rights within a reasonable time. In the event that the University elects to retain title to Subject Inventions then it shall provide the Federal government with a non-exclusive, non-transferable, irrevocable, paid-up license. In the event that the Federal Government retains title to Subject Inventions then the University shall be free to use such invention(s) so covered for its own scientific and educational purposes without payment of royalty or other charge, consistent with Federal Law. Except as provided by Federal law, the terms of government-supported grants or contracts, or when patent rights are waived by the government, patents arising from government sponsored research are controlled by this policy.

### 5.2. University Research Sponsored by Non-Governmental Entities

The University must ensure that its facilities and the results of the work of University Personnel are applied in a manner which best serves the interests of the public. Likewise, the legitimate interests of a private sponsor who provides financial or other support to research

carried out by the University must be considered. The University should normally reserve the right to ownership of patents on inventions arising out of research supported in whole or in part under grants or contracts with nongovernmental organizations or firms. Contracts or agreements which are entered into between the University and such organizations or agencies should contain clauses setting forth such a reservation unless deviations therefrom are requested by the sponsor and approved by the University consistent with the public interest. In the interest of fair treatment to the sponsor in consideration for the sponsor's investment and in the interest of discharging the University's obligation to the public in the application of the time and talent of University Personnel and University facilities, special provisions may be negotiated by the University in such non-government sponsored contracts, upon request, provided (1) that the University retains the right to use the invention for its own research, educational, and service purposes without payments of royalty fees; (2) that the University requires the sponsor to use due diligence in the commercial use of the invention; and (3) that the University retains the right to freely publish the results of its research after a reasonable period necessary to protect the rights of the parties and to allow for the filing of a patent application (Section 6 herein).

## 6. Duty to Disclose and Public Use and Publication Restrictions

### 6.1. Duty to Disclose

All individuals whose discoveries and inventions are covered by this Policy (including University-Owned Inventions and Inventor-Owned Inventions) have a duty to disclose their discoveries and inventions promptly to the Office of Technology Transfer. The duty to disclose arises as soon as the individual has reason to believe, based upon his or her own knowledge or upon information supplied by others, that the discovery or invention may be patentable. Certainty about patentability is not required before a disclosure is to be made. Failure to timely disclose an Invention may prevent the Invention from being patented, may subject the University to noncompliance with federal laws and/or contractual obligations, and may result in other University sanctions.

### 6.2. Duty to notify prior to public disclosure

The results of faculty and student research should be published in scholarly form. Though this Patent Policy does not limit the right to publish, except for short periods of time necessary to protect patent rights, publication or public use of an invention or otherwise making an invention available to the public may constitute a statutory bar to the granting of a United States patent for the invention unless a patent application is filed within one year of the date of a disclosure. Publication or public use also will generally be an immediate bar to patentability in most foreign countries.

It is the duty of ~~the~~ **inventor(s)** to report or, if the **inventor(s)** is not available to make such report, the duty of his/her supervisor to report to the Office of Technology Transfer any inventions subject to this policy prior to any publication, submission of manuscript for publication, sale, public use, or plans for sale or public use of an Invention (hereinafter a "Public Disclosure Event"). This duty to report applies immediately upon the **inventor(s)** or his/her supervisor becoming aware of any such Public Disclosure Event, and shall remain an affirmative duty until a patent application or a provisional patent application is filed, or until the one-year anniversary of the first Public Disclosure Event, whichever event occurs first. If an Invention is disclosed to any person who is not employed by the University or working in cooperation with the University upon that Invention, a record shall be kept of the date and extent of the disclosure, the name and address of the person to whom the disclosure was made, and the purpose of the disclosure.

### 6.3. Publication Restrictions

If a sponsor proposes to support a research effort that will involve a limited exclusive use license of resulting patents, the agreement with respect to publication shall include the following: (1) the sponsor must agree that the results of the research may be published if desired by the investigators or research workers; (2) to ensure that patent applications are not jeopardized, the University, investigators, and research workers may agree that any proposed publication will be submitted to the sponsor with a notice of intent to submit for publication. If within a period of no more than 90 days from the date of such notice the sponsor fails to request a delay, the investigators, research workers and University shall be free to proceed immediately with the publication. However, if the sponsor notifies the University that a delay is desired, the submission of the manuscript to the publisher shall be withheld for the period requested, but in no event shall the total period of delay be longer than one year from the date of the notice of intent to submit for publication mentioned above. Such a period will permit the sponsor to have the necessary patent applications prepared and filed but will not unduly restrict the dissemination of scientific knowledge.

## 7. Avoidance of Conflicts

Conflicts involving patentable inventions and discoveries may arise when University personnel or students enter into personal consulting agreements with outside firms and organizations. The agreements that outside firms and organizations wish to have executed by those who are to serve as their consultants frequently contain provisions as to the licensing or assignment of the consultant's inventions and patents. Unless such provisions are narrowly worded, they usually will apply to areas in which the individual's University work lies and thus come into conflict with the obligations owed by the individual to the University under these policies, either with respect to the rights of the University itself in an invention or with respect to the rights of a sponsor of research in the same field or subject matter.

Prior to signing any consulting agreement including, but not limited to, agreements involving patent rights and trade secrets, where any University time, facilities, materials or other resources are involved, University Personnel must bring the proposed agreement to the attention of the Office of Technology Transfer and either obtain a waiver of University rights or otherwise ensure the consulting agreement conforms with this and all other University policies. Consulting agreements may not in any way limit the right of any University Personnel to engage in teaching, research, or service at the University.

The foregoing requirements are in addition to, and do not eliminate the necessity for compliance with the ECU Policy on Conflicts of Interest and Commitment, the ECU Policy Statement on External Professional Activities of Faculty, and the ECU Policy on Secondary Employment for SPA and CSS employees.

## 8. Administration

### 8.1. Patent Committee

The Patent Committee, appointed by the Chancellor and consisting of no less than three members, one of whom shall be designated by the Chancellor to serve as Chair, is charged with reviewing and recommending to the Chancellor or his delegate the procedures for the implementation of this policy; resolving questions of invention ownership that may arise between the institution and its faculty, staff, students, or volunteers, or among individuals; recommending to the Chancellor the expenditure of the patent royalty fund; and making such recommendations as are deemed appropriate to encourage disclosure and assure prompt

and expeditious handling, evaluation, and prosecution of patent opportunities; and to protect the interests of both the University and the public. The University Committee on Intellectual Property/Patents serves as the Patent Committee for the University. The Director of the Office of Technology Transfer shall serve as an ex-officio voting member of the Committee. The Office of Technology Transfer shall administer and provide support for the Committee.

## 8.2. Patent and License Management

The Office of Technology Transfer is charged with administering the University's patent management and licensing program, including, but not limited to filing, prosecution, and maintenance of the University's patent portfolio and maintenance of the University's license portfolio.

## 8.3. Implementation

The Office of Technology Transfer is responsible for implementing this policy. Such implementation shall address various matters covered by this policy, including developing policies and procedures designed to supplement and interpret the ownership aspects of this policy, providing advice regarding ownership of specific works, releasing institutional rights, and accepting an assignment of rights to the Institution from an author or creator of a work.

## 8.4. Release of University Invention to Inventor(s)

In the event that the University chooses not to pursue patenting and/or commercialization of a University invention, the Inventor(s) may request release of the invention to them under the terms of the University Invention Release Agreement.

## 8.5. Dispute Resolution

### 8.5.1. Jurisdiction

Review of all matters related to patents shall fall under the exclusive jurisdiction of the Patent Committee. Any individual subject to this policy may seek resolution of questions of invention ownership that have arisen between the University and its faculty, staff, students, volunteers, or among individuals by filing a written request with the Chair of the Patent Committee. The Chair shall appoint a 5-member Dispute Resolution Panel ("the Panel") to address the dispute with at least 3 panel members being selected from the membership of the Patent Committee. In the event that the dispute involves the Chair of the Patent Committee, the Vice Chancellor for Research and Graduate Studies shall appoint the Panel. The Panel shall elect a chair from its membership. The University shall provide appropriate support to the Panel including, but not limited to, patent counsel or other patent expertise.

### 8.5.2. Conduct of the Hearing

In its sole discretion, the Panel may elect to conduct a hearing or may make a recommendation based upon the written record, provided that all parties to the dispute are given an opportunity to present evidence and arguments in support of their respective positions. The hearing shall be conducted in accordance with procedures adopted by the Chair of the Panel. A party may be accompanied at the hearing by a non-participating advisor.

### 8.5.3. Disposition

The Panel shall report its written findings, conclusions and recommendations for disposition of the matter to the Vice Chancellor for Research and Graduate Studies. Copies of such findings, conclusions, and recommendations shall be provided to all parties, subject to confidentiality of third party interests, if any. Upon receipt of such findings, conclusions, and recommendations, the Vice Chancellor for Research and Graduate Studies will conduct any further investigation deemed necessary and will issue the final University written decision.

### 9. Works Subject to Protection by Both Copyright & Patent Laws

In cases where an invention or creation is subject to protection under both patent law and copyright law, if the University elects to retain title to its patent rights, then the inventor/creator(s) shall assign such patent and copyright rights to the University.

### 10. Policy Exceptions

Exceptions to this Policy may be approved by the Vice Chancellor for Research and Graduate Studies if deemed to be in the University's best interest and consistent with UNC policies and federal and state law. **Parties affected by approved exceptions to the current patent regulation will be notified in writing by the Vice Chancellor for Research and Graduate Studies.**

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