



2022-2023 FACULTY SENATE

FULL MINUTES OF JANUARY 24, 2023

[Livestream Recording](#)

The fifth regular meeting of the 2022-2023 Faculty Senate was held on **Tuesday, January 24, 2023**, at 2:10 in Main Campus Student Center Room 249.

Agenda Item I. Call to Order

Anne Ticknor, Chair of the Faculty, called the meeting to order at 2:10 p.m.

Agenda Item II. Approval of Minutes

The [December 6, 2022](#) meeting minutes were approved as presented.

Agenda Item III. Special Order of the Day

A. Roll Call

Senators absent were: Professors Coore (Brody School of Medicine), Eblin (Allied Health Sciences), Forbes (Health Sciences Library), Selim (Brody School of Medicine)

Alternates present were: Professors Dellana (Business), Donica (Allied Health Sciences), and Kearney (Brody School of Medicine)

B. [Announcements](#)

Chair Ticknor highlighted the following from the linked announcements:

The Committee on Committees is soliciting volunteers willing to contribute to Shared Governance at ECU and fulfill faculty Service responsibilities by serving on Faculty Senate and other Committees, the Board of Governors and Board of Trustees have upcoming meetings and Information on Award nominations can be found in the linked announcements.

The following people have been granted speaking privileges for the meeting: Vice Chancellor Stephanie Coleman, Acting Chief Research and Engagement Officer Sharon Paynter, Associate Professor Paul Ravi, General Counsel Paul Zigas, and members of the committees reporting at this meeting.

C. Philip Rogers, Chancellor

Chancellor Rogers greeted the Senate and said he tried to speak to everyone in the room and that it was great to be in person at a Faculty Senate meeting for the first time since he became Chancellor. He said the last time he attended a Faculty Senate meeting was in March 2013 when he was Chief of Staff at ECU and the meetings were held in Mendenhall Student Center. He thanked Chair Ticknor, the Faculty Officers and to everyone who made the in-person meeting possible.

He mentioned so much is happening within the University along with many issues in higher education, but said he would focus on a few key topics. He then spoke on the three areas of the Report on Faculty Employment which are linked below. He thanked IPAR for preparing the data and ensuring it was readily accessible throughout the entire year on the dashboard for faculty review.

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(Please refer to the footnote for different selection criteria for each table and note that temporary faculty are included in these reports as required by IPEDS reporting criteria. The "Full and Part-Time Faculty by Unit and Tenure Status" does not identify faculty numbers by gender, due to expressed concerns with providing data that could potentially be personally identifiable.)

[Faculty FTE by Unit and Gender](#)

[Full and Part-Time Faculty by Unit and Tenure Status](#)

[Longitudinal Profile of Faculty Tenure Status and Percent Totals \(all units\)](#)

He stated the data includes information on all employees with the rank of: Professor, Associate Professor, Assistant Professor or Instructor. Deans and Associate Deans are counted in the Administrative category. Individuals whose primary duty is instruction are counted as faculty.

He said the report noted that ECU has 40% tenured, 14% tenure-track and 46% fixed term faculty. He said the data was comparable to the 2021 data with only minor differences. He mentioned over the last 5 years, the voluntary turnover rate, excluding retirees, for tenure and tenure-track faculty ranged from 2 to 4%. With retirements included, these rates range from 5 to 7%.

Comparing 2021-2022, the voluntary separation rate, excluding retirements, increased from 3% in 2021 to 4% in 2022. The number of resignations by Assistant Professors was 15 in 2022, which is higher than in 2021, but comparable with 2020 and lower than 2019. He said we have had some variability in the last five years of faculty turnover; but, based on the IPAR analysis, the data did not indicate a significant change in turnover rates among tenured and tenure track faculty on campus.

He said questions about open positions or current searches should be directed to the Deans and Chairs of the respective Colleges. He encouraged the Senators to engage in conversations with colleagues in their respective Schools and Colleges about positions. He said at the moment, there is not a freeze on hiring. He said the freeze was lifted shortly after he became Chancellor and at that time, he released approximately 1/3 of the available faculty positions back into the pool for hiring. He said the freeze was later more broadly lifted to build back the key roles needed across ECU. He again encouraged Senators to work with their Deans and Chairs for assistance in this area.

He shifted topics to the NC General Assembly and the new legislative session that has just begun. He said the state legislators will consider the UNC System's Budget and Policy Agenda this session and that the draft was presented to the Board of Governors at the January meeting. He said this draft will be an action item during the February meeting and once the Board of Governors finalize the agenda at that meeting, each institution will engage in advocacy around the individual campus priorities.

He said people remain a top priority for the UNC System and ECU and he feels another recommended state investment in faculty and staff salary increases commensurate with other state agencies is forthcoming. He said he anticipates a request for inflationary increases for operating costs within the institutions as well. He confirmed that both forementioned items received funding allocations during the last session and stated they would continue to advocate for strong funding in those areas.

He acknowledged the need for salary increases for faculty as a valuable role in delivering a world-class education to our students and fulfilling the mission of ECU. He said we need to continue to tell our story of excellence as we advocate for resources.

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He said he's been asked how faculty and staff can advocate for system priorities. He said the easiest way is to place ECU's mission at the forefront every day. He asked the following questions to assist with this process. "Do we have educational programs that are meeting the needs of today's learners? Are we continuously improving our programs so they are innovative? Do we have the research programs and engagement activities that translate into solving the challenges of today and tomorrow? Are we providing access to excellence and opportunity in flexible and affordable ways that meet the needs of today's and tomorrow's learners?"

He said a reason he came back to ECU is because it is a place committed to making a difference in the lives of learners of the state and region. He said the brand and perception of ECU matters and determines how he has conversations regarding resources. He said if we are mission aligned, demonstrate an innovative and entrepreneurial approach, are future focused and committed to continuous improvement, we can be position ourselves to advocate effectively for resources.

Chancellor Rogers discussed a non-recurring funds initiative program to support retiring faculty. He said the details are not known, but the concept is to assist institutions to effectively manage resources. He said priority would be given to institutions that have received enrollment declines over recent years. He said a great deal is still unknown and he anxiously awaits the Board of Governors approval for legislative consideration.

He said the draft legislative agenda has two campus specific priorities that include primary care for rural and underserved areas of NC and a merit-based scholarship program to be matched with private dollars to allow for recruitment of more students from eastern NC. He said the goal is to have students stay in eastern NC and attend college at ECU.

He said the successes of ECU in the most recent legislative sessions are due to how we deliver on our mission and publicly communicate the ways we serve our state and constituencies. He said by continuing to demonstrate stewardship of the resources allocated to us and by highlighting the ways we are executing our mission, he hopes to continue showing we are worthy of new investments and additional institutional resources he will be advocating for.

Questions

Immediate Past Chair Purificación Martínez (Foreign Languages) asked what strategies are being implemented to address confidence in senior leadership based on results from the employee engagement survey.

Chancellor Rogers said he works toward perpetual improvement regarding engagement, dialog and advancing the priorities, goals, and shared governance of ECU. He said perpetual improvement means trust in both directions and identifying shared values with an understanding that disagreements may happen, but that healthy dialog can come from the disagreements. He said he understands the importance of building trust and feels a lot of progress has been made in this space. He stated he hopes everyone knows how much he cares about everyone and ECU.

He said navigating challenging times can cause disagreements, but we all share the same institutional values of ONE ECU. He said more time is needed to solicit information from the faculty of all Colleges and Schools and that he and Provost Coger are discussing engagement sessions with the faculty this semester and next.

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He also said he will be considering how to launch more regular campus communications so he can communicate priorities and key goals directly to faculty and campus constituencies. He said he and Provost Coger have discussed how to directly engage the Deans and other University leaders to be involved in this process to set an expectation all the way down to the Chair level, as ways to define senior leadership. He said they need to disaggregate some of the data from the survey for key colleges to see where progress can be made.

Professor Megan Millea (Economics) asked about the externally funded research performance metric which was heavily impacted by the reorganization of the institution and asked how Administration plans to move in that direction.

Chancellor Rogers said when reviewing the 12 possible metrics, 11 could have put ECU in a challenging position. He said they felt confident in pursuing the research metric after reviewing the data from previous years and said if ECU stays on the same trajectory, that it is currently on based on previous years, we could succeed by using this metric. He said the chosen metric is specifically for sponsored research, but that all types of research are of high value to the institution.

Robin Coger, Provost and Senior Vice Chancellor for Academic Affairs said ECU continues to be one institution as it pertains to research, just as it was before the restructure, but things such as pre-award and post-award will continue to evolve. She also said conversations need to continue with the faculty directly and on the Department and College-levels to ensure ECU continues moving in a positive direction, not only for productivity but for support and so higher administration hear the needs from multiple directions.

Professor Joi Walker (Chemistry) said Thomas Harriott College of Arts and Sciences (THCAS), as of their most recent faculty meeting, could not submit grants due to lack of staff. She said there are deadlines looming, with no one to help faculty and it speaks to the fact that ECU and THCAS have a problem regarding needs for research support.

Provost Coger said they are aware of the unique issue in THCAS at the moment and that she is working with the Dean of THCAS and Research, Economic Development and Engagement (REDE) to alleviate this issue in the short term until someone is hired.

Acting Chief Research and Engagement Officer Sharon Paynter said she was working with Human Resources to get the right pre-award support at the institutional level at REDEI and THCAS to ensure the needs of the College and the University are met. She mentioned a conversation she had with the Dean of THCAS that discussed ways to share the workload in both the short-term and long-term to get through the current staffing issue occurring in that College.

Professor Margaret Bauer (English) said in a previous meeting, Chancellor Rogers or Provost Coger mentioned a way to determine inefficiencies and roadblocks from offices on campus, such as Human Resources and others and asked if there has been a mechanism developed to help with these issues.

Provost Coger said Vice Chancellor Stephanie Coleman has devised a taskforce for each division to review issues, particularly in Human Resources, and that feedback will be disseminated when it becomes available. She said she spoke with ITCS about a mechanism for faculty to input issues but

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feels faculty speaking directly to their respective Chairs and Deans would be more effective as then she can understand the problems as brought directly to her from the Dean's Council.

She wants the faculty to speak directly to the Chairs about any issues that arise and the Chairs to share with the Deans and then from the Deans to her via their meetings. She said she meets with the Deans twice a month which provides multiple opportunities for her to hear the issues the faculty may have. She said by using another medium, she feels it would be harder to understand the problem and how to solve it together. She reiterated she wants faculty to speak directly with their Chairs and Deans.

Professor Bill Staub (Music) asked how the faculty can shape the Strategic Plan beyond the survey previously conducted.

Chancellor Rogers said the plans were developed in an iterative way across multiple steps. He said there is a strategic planning committee that represents multiple components of the institution. He mentioned Chair Ticknor, Chair of the Staff Senate, and a student representative along with others currently serving on that group. He said there is an advisory group which covers the breadth and depth of the University including representation from every department is represented. He said there was also the survey and a campus presentation which helped in the discussion of the strategic plan. He said the committee was working to develop a vision statement and priorities.

He recommended reaching out to Chair Ticknor with questions or issues. He said everyone has a representative on the advisory group and told faculty to reach out to them so those representatives can be actively engaged in bringing ideas and suggestions back to the group as a whole as a representative of the faculty. He said the process is about to move to the second phase to review the priorities and build a set of objectives which will involve more opportunities for faculty to provide input including another survey and a campus-wide forum. He asked the Senators to encourage their colleagues to attend the forum and complete the second forthcoming survey .

Professor Jin-Ae Kang (Communications) asked about the new funding model and how this new model will affect funding for graduate school programs.

Chancellor Rogers said the new funding model is very different from the previous funding model. He said the new funding model allocates funds similarly for undergraduate and graduate programs with the exception of programs in specific fields, designated by the Board of Governors, for higher levels of funding. He said discipline-specific amounts can be shared with the Deans should it be requested.

Provost Coger said she heard in Professor Kang's question a comment about dictating funds allotted for graduate students. She stated neither Chancellor Rogers nor she have dictated a change in allotment of funds, but that the funding model has changed. She suggested the Senator speak with the Dean of the Graduate School for further clarification.

Professor Brent Henze (English) asked Chancellor Rogers for clarification on his statement about returning 1/3 of the lines frozen during the hiring freeze and when we could expect the other 2/3 to be released for hiring.

Chancellor Rogers said in previous years, ECU was holding lines for a possible budget reduction. He said that time has passed and ECU is no longer holding back positions. He said Deans and

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Chairs have been authorized to make strategic decisions based on hiring needs for their respective areas.

Provost Coger said the Deans submit criticality forms to her Office which are reviewed for need and budget before continuing the process of hiring.

Immediate Past Chair Purificación Martínez (Foreign Languages and Literatures) asked if the Chancellor could explain the implications of the announcements made at the last Board of Governors meeting about faculty life and revisions being made regarding fixed term faculty, post tenure review, etc., and what that would mean for faculty.

Chancellor Rogers said he spoke with the Senior Vice President of the UNC System and asked the same question and was told that more information was to come but the administrators are working to determine how it will directly affect faculty. He said he did not have an answer at this time.

Professor Blair Weaver (Engineering) asked regarding new hires, what measures are being taken with regards to salary compression.

Chancellor Rogers said they are leveraging the tools currently available to identify key areas of need. He said Provost Coger is deeply engaged with the Deans to identify available resources and to prioritize needs and will allot them to the Colleges as they become available.

**D. Bill Koch, Associate Vice Chancellor for Campus Safety and Auxiliary Service
Joshua Puckett, Interim Director of Parking and Transportation Services**

Associate Vice Chancellor Koch was present to answer questions about the [Annual Report on Parking and Transportation Services and 2022 Parking Price Comparison](#). He apologized for the frustration with decreased staffing in Parking and Traffic. He said they are hiring more officers and hope to be able to assist more in the future.

Questions

Professor Susan Pierce (Sociology) asked about the status of the NIOSH Study and report about the Brewster building and if the study will include more recent deaths than the ones originally reviewed.

Associate Vice Chancellor Koch said NIOSH was recommended by the State Department of Health and Human Services and has had limited staff available due to the recent pandemic. He said they are waiting for the report to be returned, but if a health hazard was found during the assessment they would let ECU know immediately. He stated so far, they have not received any sort of documentation, so he feels that is good news.

Professor Michael Daniels (Social Work) asked about the consideration of safety at the University level.

Associate Vice Chancellor Koch said his office is working with the UNC System along with others to receive training about potential threats and how to handle them on and off campus. He reminded Senators that if a situation arises with a student or colleague to involve the right people to alleviate

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the issue. He said the Dean of Students Office has an Assessment team and CARES team to assist someone in trouble and helps to keep campus faculty, staff and students safe.

Professor Mark Moss (Dental Medicine) asked the timeline for the parking garage planned at the Health Sciences campus.

Associate Vice Chancellor Koch said he anticipates approximately five years, to include a couple years of design and then construction.

Professor Margaret Bauer (English) asked if there were plans for another bike share or scooter vendor to be brought to campus.

Associate Vice Chancellor Koch said no. He said ECU had a vendor, but they were requiring the University to take bikes and scooters so they declined due to a safety issue with the scooters. They tried another vendor and again ran into safety issues, so as of now there are no plans to try another vendor due to the market being ever-changing at the moment.

Professor Shannon Powell (Nursing) asked about parking for guest speakers, specifically on the Health Sciences campus. She said being active in the community, as it relates to ECU's mission, requires guests to visit our campus and asked the best way to allow guest speakers to park on campus, specifically Health Sciences.

Associate Vice Chancellor Koch said ECU tends to overcomplicate things, but there are a lot of state rules to abide by regarding this issue. He said he feels there may be a departmental issue related to the temporary parking passes being distributed for guest speakers but will reach out directly to assist. He said Parking and Traffic now has an office on the Health Sciences campus to lessen some issues with parking on that campus.

Professor Thompson Forbes (Nursing) said there is essentially no visitor parking on the Health Sciences campus available and the available spots are not easily located. He wants to know if there is a solution available for faculty who invite guests to campus.

Associate Vice Chancellor Koch said there are several pay-by-space options available that can be purchased via an app. He said there are spots in front of Brody, facing Moye Blvd., near the Student Center and also some near the Health Sciences Library. He said they will review the available pay-by-spaces on the Health Sciences campus to determine if more are needed.

Faculty Assembly Delegate Alternate Toyin Babatunde asked what the Parking and Transportation Office is doing to ensure access and minimization of abuse of electric charging stations on the Health Science campus.

Associate Vice Chancellor Koch said there are charging spaces available and Facilities Services sets up the infrastructure for electric vehicles in the parking spaces allotted. He said he would look into the Health Science campus and to determine if people are honoring the four-hour limit and if additional spaces are needed.

Professor Gabriel DiMartino (Music) asked is there a plan to increase or decrease the number of paid spaces near the Rivers building.

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Associate Vice Chancellor Koch said they look at the vacancy rates of all spaces when staff is available. He said numbers are currently less than pre-pandemic levels, but he hopes to see that get back to normal in the coming months.

E. Purificación Martínez, Quality Enhancement Plan (QEP) Director

Director Martínez presented [QEP 2023-2028 – Go Intercultural!](#). She thanked Chair Ticknor and the Senators for allowing her to speak. She said the Quality Enhancement Plan (QEP) is part of the reaccreditation with SACSCOC.

She said this program will focus on student learning outcomes and that this is an interdisciplinary project incorporating faculty from across the University teaching undergraduate students. She said the focus is to teach students to be more focused interculturally and to be able to communicate effectively with people from different cultural backgrounds. She said cultural backgrounds could include racial and regional differences.

She said by simply taking a course with the cultural diversity designation or one Spanish class, does not allow students to develop the needed intercultural competences. She said it is necessary to have a targeted, well-designed project that encompasses the entire student opinion.

She said all faculty are teaching in interdisciplinary classrooms and that any discipline can be taught interculturally. She briefly discussed the slides of the linked presentation above.

She discussed a Summer Institute available for faculty being held May 8-12, 2023 and said faculty who participate do not need any prior training. She said participants will become IDI Qualified Administrators, which is a professional and well-known accreditation among this field of study and that faculty will also receive a stipend for participating.

She said there will be opportunities for faculty to collaborate with experts and one another to develop and deepen their intercultural skills. She said faculty can propose the redesign of a course module, entire course, or a specific project. She said there is flexibility in the choices available.

She encouraged Senators to reach out to their Unit's representative if they are interested and to encourage their colleagues to participate in the summer institute. She encouraged all disciplines to get involved to make this a successful initiative.

For additional information and details about the QEP, please reach out directly to Director Martinez.

Questions

Professor Rachel Roper (Medicine) asked if the School of Medicine has a representative.

Director Purificación Martínez clarified that only undergraduate students are being targeted for this particular study, but there has been interest in graduate students, so it is being reviewed for a later initiative.

Professor Stephen Mosey (Geological Sciences) asked could Director Martinez speak to intercultural differences on a more local level and how it is being approached through the QEP in relation to regional transformation in this area.

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Director Purificación Martínez said intercultural competence is referring to both global and local levels. She said some of the structure of the initiative is dependent upon what the faculty member provides to the committee. She said the Chief Research Officer has contacted them about a partnership and they plan to work together on this initiative.

F. Toyin Babatunde, Faculty Assembly Alternate

Assembly Alternate Babatunde presented on behalf of Faculty Assembly Delegate Reis. She referred to the [report](#) linked in the agenda.

Questions

No questions were asked at this time.

G. Anne Ticknor, Chair of the Faculty

Chair Ticknor provided her full remarks, below:

In my convocation remarks, I spoke about limitations and restrictions placed on universities, faculty, and students through legislation and policies in efforts to constrain curriculum, limit student access to content, and control faculty expertise. This alarming trend continues in other states and here in North Carolina. With a quick scan of *The Chronicle* or *Inside Higher Ed*, you will see similar reports of interference and constraint on academic freedom across our nation, which are explicitly prohibited in the UNC Code as well as by our accrediting body.

Today my remarks are focused on three items reported in the UNC Board of Governors meeting last week that pertain to external and internal interference and academic freedom. As faculty and elected senators representing your units, I ask you to take these topics back to your respective units and engage in conversations around these issues and the potential implications they may have on your faculty, staff, and students. We need to be aware and vigilant about these issues because we will be impacted.

The first item is proposed revisions to add an amendment to UNC Policy 300.5.1 - Political Activities of Employees. This policy states that all UNC System employees Exempt from the State Personnel Act have the right to engage in, or refrain from, participating in political processes. The newly proposed amendment, which is planned to be voted on in the February meeting, adds a new section entitled Prohibition on Compelling Speech. This section includes 6 paragraphs that outline the parameters of compelled speech, which codifies that the university cannot force an individual to support a certain expression by soliciting or requiring employees, or potential employees, to affirm, opine, describe actions, or write statements in support of or in opposition to “beliefs, affiliations, ideals, or principles regarding matters of contemporary political debate or social action as a condition to admission, employment, or professional advancement”.

(<https://www.northcarolina.edu/apps/bog/doc.php?id=67156&code=bog>)

One of the concerns that has already been raised about the proposed amendment is that each campus has hiring and advancement processes already in place that might require potential or current employees to demonstrate actions, describe beliefs, or write statements that embody the mission and goals of the institution, the division, or the department

(<https://ncpolicywatch.com/2023/01/19/unc-board-of-governors-courts-more-controversy-with-new-proposed-rule-on-hiring-and-enrollment/> & <https://www.newsobserver.com/news/state/north->

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[carolina/article271337952.html](https://www.northcarolina.edu/article271337952.html)). Often this practice is in place during the search process to ascertain if the potential employee demonstrates actions that align or further these goals and is able to fulfill the requirements of the position. In our Faculty Manual and further codified in several of our unit codes, faculty have voted to embed similar expectations in their annual evaluation processes, promotion and tenure requirements, and advancement in title guidelines. Questions have been raised specifically about the impact this proposed amendment will have on DEI initiatives, how this amendment could limit our efforts towards building more inclusive and affirming policies and practices at ECU, especially those based on research. My question this morning in the University Council meeting when we discussed this policy and freedom of expression was, “Who determines the definition of ‘matters of contemporary political debate or social action’?” My concern is that the definition of these terms will change, we will not have input into how they are operationalized at our university, and we will be exhausted by the constant chase to align with the expectations.

The second item presented at the BoG meeting is the resolution on Educator Preparation. This resolution (<https://s39337.pcdn.co/wp-content/uploads/2023/01/Bog-Resolution-on-Reading-Prep-Training.pdf>) was presented and passed in the Committee on Educational Planning, Policies, and Programs, then passed in the full board meeting, in response to the UNC System Literacy Course Review report. The report was the last step in a multi-year reading curriculum evaluation of Educator Preparation Programs in our higher education institutions across the state legislated in SL 2021-108 as part of the Excellent Public Schools Act of 2021. The legislation required that a third party evaluation team review literacy course curriculum and evaluate alignment with the Science of Reading, which is one approach to reading instruction. The review included an analysis of course syllabi, materials, presentations, test questions, assignments, a 1-hour video of course instruction, and an instructor interview with the reviewers of each course related to literacy at the 15 UNC System Educator Preparation Programs. The resolution requires that curriculum, and how it is taught, in university classrooms be aligned with this approach to reading without regard for faculty expertise or autonomy. Further the resolution purports that there is a single way to approach reading instruction and does not consider the possibility that there are additional approaches to teaching reading or that further inquiry into these approaches is necessary. Finally, the resolution sets a deadline for courses to make improvements based on the findings from the report with consequences for non-compliance (<https://pulse.ncpolicywatch.org/2023/01/23/good-is-not-good-enough-unc-board-of-governors-sharpens-focus-on-literacy-instruction/#sthash.l8qiS2s0.dpbs>).

There are many elements of this process and resolution that are startling, and today I want to highlight the trends limiting academic freedom, the right for students to learn from content experts, and interference with curriculum to narrowly define what constitutes effectiveness.

As we well know the UNC Code and Policy Manual (<https://www.northcarolina.edu/apps/policy/doc.php?type=pdf&id=58>), the ECU Faculty Manual, and the Principles of Accreditation from SACOS (<https://sacscoc.org/app/uploads/2019/08/2018-POA-Resource-Manual.pdf>), all reinforce that faculty are content experts, responsible for the content and effectiveness of their course curriculum and have the freedom of inquiry to pursue through teaching, learning, and research. Further, the 1940 Academic Freedom statement from AAUP protects classroom speech that is germane to the subject matter of the course (<https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>). The threat to faculty and student rights protected by these governing documents were made visible in

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the resolution and are echoed in recently reported censoring of dually enrolled high school and college course content, state restrictions of topics taught in K-12 and higher education settings, and state teacher licensure course requirements for K-12 teachers (<https://www.insidehighered.com/views/2023/01/24/bills-censoring-k-12-teaching-affect-higher-ed-too-opinion>). These pathways have been deliberate and strategic to provide avenues into controlling curriculum, course content, faculty expertise, and student learning in university classrooms as the end goal.

The third and final item presented at the Board of Governors meeting, are the 6 Faculty initiatives announced by President Hans and shared by Delegate Babatunde. Each of these initiatives will have a workgroup, with much of their work occurring this spring, and with representation from across the UNC System. Faculty Assembly Delegates and the Chair of Faculty at each institution have been asked to nominate faculty who are interested in being considered for these work groups. Final nominations will then be determined by the Faculty Assembly Executive Committee and submitted to the UNC System Office. We have a tight timeline for nominations, and if you are interested in being nominated for a particular workgroup, please email me and include 1-2 lines about your expertise related to the topic by the end of the day Thursday, January 26. Provosts were also asked to submit nominations and I know that Provost Coger has already reached out to deans and directors. This is an opportunity for shared governance to thrive as we work together to update, revise, and create faculty-related policies for our UNC System colleagues. I end with the hope that this is a good faith effort to ensure more inclusive and affirming policies for faculty; however, I remain a bit skeptical as we know faculty rights are being infringed upon in the two items I have already shared and reports from our colleagues outside the UNC System (<https://www.insidehighered.com/news/2023/01/24/hundreds-wvu-faculty-oppose-changes-evaluation-tenure>).

Questions

Professor Andrew Vermiglio (Allied Health Sciences) asked where he could find Chair Ticknor's remarks.

Chair Ticknor said they could be found in the meeting minutes [see above] or provided via email immediately following the meeting at the Senators request.

Professor Margaret Bauer (English) asked if we will keep using post tenure review processes, pending further guidance.

Chair Ticknor said her understanding is that much of the work will happen this spring, with new policies suggested this summer, but she is unsure of an implementation date.

Professor Bill Staub (Music) asked are work groups being solicited for volunteers to address the proposals from the Board of Governors and is the work of these groups going to have an impact on the proposals.

Chair Ticknor said all nominations will go into a pool from all the UNC System institutions and there will be representation for each of the groups. She said faculty will work with colleagues across the institutions and with the System Office personnel.

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Professor Bill Staub (Music) asked will there be a recommendation to the Board of Governors from the findings of the workgroup.

Chair Ticknor said from her understanding they are reworking policy that already exists, except for professional track faculty (fixed-term), which could be a new policy along with guidelines to assist with this process.

Immediate Past Chair Purificación Martínez asked what the implications of the DEI policies are in regard to the proposed changes from the Board of Governors and the UNC Code.

Chair Ticknor said she is unable to answer the question, but implications for this proposed policy could be damaging towards DEI efforts on campus. She is concerned with not knowing the definition.

Professor Brent Henze (English) asked if the teaching schools in the UNC System were consulted about the resolution on educator preparation and asked if there was something the University communities could do to push back against it.

Chair Ticknor said the law had several parts and one was to build a common literacy framework for the System. There was faculty representation from a few of the teaching schools in the System, but not all of them. She stated she gave feedback. An outside consulting group was included that gave materials to be completed and then an interview process. There was not any back-and-forth discussion between faculty and the consulting group. She stated there were mixed expectations about the review.

She said this law speaks to more than just to literacy for teacher educators. It affects all educators and awareness is part of it.

There were no further questions for Chair Ticknor.

H. Question Period

Professor Bethany McKissick (Education) asked has there been discussion about how the university will respond to instructor freedom and possible future mandated curricular changes.

Chancellor Rogers said he agreed with Chair Ticknor and agrees sharing the history is important. He said it was part of a Board of Governors resolution in 2020 as a part of a System requirement to adopt the common UNC System literacy framework. The General Assembly responded in 2021 with the Excellence in Schools Act which focused on the science of reading. As a part of the Excellence in Schools Act, funding was appropriated to the UNC System to hire a third-party reviewer. TPI was the group selected. He said he has debated the process and the metrics used behind the scenes. He said he will continue to ensure the faculty perspective is shared with appropriate parties. He said each campus chose what information was shared based on guidelines provided. He feels there is lack of clarity evidenced by each campus submitting different materials.

He said a graded report was provided based on the information from the submitted materials. He said one institution was graded as strong, five were in the good category and nine designated as needed improvement or inadequate and ECU fell into the last category.

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He said Provost Coger is leading experts in the College of Education to determine how to respond to any adjustments that should be made to align with the state law. He said while they appreciate the concept of academic freedom, as an Institution are required to be in alignment and follow state laws. ECU is working with the reviewers to understand what the missing areas are to ensure they can be adjusted.

He said the College of Education is moving quickly to conduct self-studies and said he has confidence that we will be in compliance very soon.

Provost Coger said this case is similar as defining program and learning outcomes or licensure requirements. She said she is confident the College of Education will do what needs to be done to comply with state law.

Chancellor Rogers added that he doesn't want anyone to think we are not delivering in this area. He said this was an input-based measure on how ECU is delivering on the science of reading, but when looking at the outcome measures of the students exiting the College of Education, ECU is excelling in our mission. He doesn't want anyone to think because we are in an improvement category that we are not succeeding. He said the College of Education and ECU want to ensure we are in a good state of compliance with state law.

Professor Charity Cayton (Education) asked if dates for College recognition ceremonies could be announced earlier than early March to ensure families and friends have time to make plans for travel.

Provost Coger said there is a committee working on dates and times for recognition ceremonies. She said at her February Dean's Council meeting there will be a guest to clarify things. She feels the announcement will come before March.

Professor Kamran Sartipi (Computer Science) asked can we provide additional or tuition and/or other financial assistance to international graduate students in order to recruit them to assist with research.

Provost Coger said as the Senators know, she has been at ECU for only 6 months, but will answer as a former dean. She said faculty typically used grants to support their students and ECU does not prohibit this option.

She said University resources are distributed to meet needs throughout the institution. She said she has not reviewed the help available through the Graduate School, but if provided it should be supplemental and not cover all items related to graduate assistantships. She said she hopes faculty are looking for resources in all areas due to budget cuts and limited support externally.

Professor Stephen Moysey (Geological Sciences) said he has been told grants cannot be used to cover tuition and fees for students. He said it makes ECU not competitive at the graduate level. He asked if we could look at the process to determine if assistance can be provided. He stated this has been a long-standing problem at ECU.

Provost Coger said she needs to ask more questions to determine what can be done.

Professor Susan Pierce (Sociology) said several faculty are missing the tradition of department level recognition ceremonies and she's heard the ceremonies are not being continued due to reduced

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technical support available. She would like to know if there is a plan to address the shortage in order to bring the ceremonies back.

Provost Coger said yes; there is a workgroup determining how to optimize space and logistics to bring the department ceremonies back. She said at the Deans Council in February she hopes to be provided a solution.

Professor Jin-Ae Kang (Communication) asked if the University has a plan for implementing multiple-year contracts for fixed-term faculty.

Provost Coger said some fixed-term faculty on campus already receive multi-year contracts. She emphasized again to talk with your Chair and Dean, but stated many departments already administer multi-term contracts.

Chair Ticknor added that multi-year contracts for fixed-term faculty are dependent upon multiple factors, including time in the position, qualifications and/or other policies and procedures. She added some Departments were able to add multi-year contracts for some faculty, but some colleges must give one-year contracts for specific reasons. She said there is a workgroup for the UNC System that is currently reviewing professional track faculty (fixed-term faculty) regarding incentives for advancement. She said there are also some Faculty Senate Committees reviewing centralized pay increases for advancement in title for fixed-term faculty.

Paul Zigas, General Counsel gave information on the proposed changes by the Board of Governors to the Political Activities Policy. He said DEI has not been presented as a matter of controversy and that he does not believe the QEP will be affected by the proposed changes.

He said there is a lot of nuance and detail in the Policy along with implications of the first amendment and constitutional law which encompasses the unique governing system of the UNC System.

He said the new proposed changes to the Political Activities Policy is a companion piece to existing state law. He said the existing state law discusses free speech and what the campus can and can't do and said similar language is what is being proposed in the new policy. In the law, the Board of Governors can approve supplementary policies to the law.

He said there is a need to distinguish between government and University speech. The University has academic freedom along with the faculty that includes the curriculum and what, whom and how information is taught on campus. He said academic freedom is not just a right for the individual faculty, but for the Institution as a whole.

He said through the actions of the General Assembly, powers are conveyed to the Board of Governors, by law. He said the Board of Governors speak for the Institution, set policies; and any policy set is the Government's speech. He continued to say these are different from individual speech and the rights as private citizens. This speech is determined by the Government, itself.

Government employees can have speech regulated by their government employer. Faculty are given some leeway when engaging with students in the classroom and in the end, the institution's speech is final.

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The UNC System Code states the Board of Governors is the official speaker for the University. It is then delegated down to the Chancellor or President of the University; the speaker for the Institution. The Board of Governors has a right to regulate the speech of the University, within certain parameters.

The Political Activities Policy is about the government's speech when there are interviews for employees or applicants for admission to the University. He referenced Article 36, the existing policy on government speech.

He emphasized none of the laws regulate the faculty's ability to speak as a private citizen. It is a guide to use when engaging in University activities or talking on behalf of the University.

He discussed the proposed changes to the Political Activities Policy and reiterated the Board of Governors is the ultimate Speaker of the University that is delegated down to the Chancellor. He said if the Board of Governors decides on a policy, it is unlikely it will be changed.

Questions

There were no questions for Mr. Zigas.

Professor Gabriel DiMartino (Music) asked is there a secondary metric that could be used in the new funding model if it is determined the research metric isn't effective by the timeline provided.

Provost Cogger said ECU is fixed on the chosen metric of research through 2027. She said another list of options will be provided then. She said she is optimistic that chosen metric [research] will work well for ECU.

Professor Bill Staub (Music) said we are aware ECU is being evaluated for the funding model and asked are the individual units being evaluated on these metrics as well.

Provost Cogger said we are all in as ONE ECU. She said all of us are to deliver on the metric. She said some colleges may help more than others, but all Departments will work together to deliver on this metric. She said it will not be broken down individually, but she hopes for more interdisciplinary collaborations between departments.

Professor Margaret Bauer (English) said there seems to be no alignment in advancement in title when a multi-year contract is awarded. She asked does the University have a plan to align the two programs together to ensure more advancements with multi-year contracts.

Provost Cogger said she has not had conversations with the Deans regarding this since she has only been at ECU for 6 months. She said fixed-term faculty need a way to progress, but she hasn't done research to see what is available. She said she is concerned with the balance between tenured, tenure-track and fixed-term faculty. She encourages conversations to be had inside departments and colleges to make sure we are getting the balance right. A lot of these things are not being dictated university-wide. She will add this topic to the Dean's Council agenda for March to allow Senators time to discuss with their Chairs and Deans, individually.

Immediate Past Chair Purificación Martínez asked the Provost why she was concerned about the data presented regarding faculty distributions (tenure/tenure-track/fixed-term).

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Provost Cogger said she is concerned with the high amount of fixed term faculty compared to tenure/tenure-track. She said she is suggesting more conversations regarding this topic.

Agenda Item IV. Unfinished Business

There was no unfinished business to come before the body at this time.

Agenda Item V. Report of Graduate Council

Graduate Council, Ron Preston

Professor Ron Preston (Education), Chair of the Graduate Council provided Formal faculty advice on curriculum and academic matters acted on and recorded in the [December 12, 2022](#), Graduate Council meeting minutes, including level I action items from the [November 16, 2022](#), Graduate Curriculum Committee meeting minutes which were approved by its delegated authority and are reported here for informational purposes.

Policy action item (GC 22-11) recorded in the [December 12, 2022](#), Graduate Council meeting minutes, included a revision to the “General Requirements for Degrees and Certificates” policy in the Graduate Catalog to include language that clarifies expectations for what courses will make up a post- baccalaureate certificate vs. post-master’s certificate (proposed text can be viewed [here](#)).

There was no discussion, and the Faculty Senate approved as formal faculty advice to the Chancellor, curriculum and academic matters acted on and recorded in the [December 12, 2022](#), Graduate Council meeting minutes, including level I action items from the [November 16, 2022](#), Graduate Curriculum Committee meeting minutes which were approved by its delegated authority and are reported here for informational purposes, as well as policy action item (GC 22-11) recorded in the [December 12, 2022](#), Graduate Council meeting minutes, included a revision to the “General Requirements for Degrees and Certificates” policy in the Graduate Catalog to include language that clarifies expectations for what courses will make up a post- baccalaureate certificate vs. post-master’s certificate (proposed text can be viewed [here](#)). **RESOLUTION 23-01**

Agenda Item VI. Report of Committees

A. Undergraduate Curriculum Committee, Stacy Weiss

Professor Weiss (Education), Chair of the Committee, presented curriculum and academic matters Curriculum and academic matters acted on and recorded in the meeting of [November 10, 2022](#), including curricular actions in the following units:

- Department of Geography, Planning, and Environment within the Thomas Harriot College of Arts and Sciences
- Departments of Kinesiology and Health Education and Promotion within the College of Health and Human Performance

Curriculum and academic matters acted on and recorded in the meeting of [December 8, 2022](#), including curricular actions in the following units:

- Department of Biology and Interdisciplinary Programs within the Thomas Harriot College of Arts and Sciences
- Departments of Kinesiology and Human Development and Family Science within the College of Health and Human Performance

There was no discussion, and curriculum and academic matters acted on and recorded in the

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meetings of [November 10, 2022](#) and of [December 8, 2022](#) were approved as presented.

RESOLUTION #23-02

B. Educational Policies and Planning Committee, John Collins

Professor Collins (Philosophy and Religious Studies), Chair of the Committee, presented curriculum and academic matters acted on and recorded in the meeting of [January 13, 2023](#), including the following actions:

- Request to Discontinue Graduate Certificate in Hispanic Studies in the Department of Foreign Languages and Literatures
- Request to Deliver Online the Graduate Certificate in Gerontology in the School of Social Work

There was no discussion, and the curriculum and academic matters acted on and recorded in the meeting of [January 13, 2023](#), were approved as presented. **RESOLUTION #23-03**

C. Student Scholarships, Fellowships, and Financial Aid Committee, Ziwei Lin

Professor Lin (Physics), Chair of the Committee, provided a report on scholarship funds from Dowdy Student Stores (Barnes and Noble). He said the Committee was charged with determining how many scholarships are awarded from Dowdy Student Stores. The total amount of scholarships funded from profits for the academic year 2022-2023, was \$300,000. All funds are given to the Admissions Office and used for ECU Scholars scholarships. He said the Student Stores had approximately six million dollars in total sales for the fiscal year ending June 30, 2022, which equates to 5% going back to students in the form of scholarships. The Admissions Office was given \$50,000 to award 50 scholarships at \$1,000 (\$500 per semester) for textbooks and supplies. He said the focus for the scholarship awardees are for out-of-state and transfer students and that the scholarships are for full-time freshman just entering ECU or an incoming transfer student with GPA of at least 3.0.

No awardees were athletes for this academic year.

EC Scholars is given \$250,000 yearly by the Student Stores and used for regular expenses and study abroad, as needed. As a part of the EC Scholars program, students are required to study abroad at least one semester. He said in past years, the annual amount awarded was \$250,000; awarded to 10 students at 25,000 for four years and one study abroad. He added at one time, profits were as low as \$90,000.

There were no questions, and the report on the scholarship funds from Dowdy Student Stores (Barnes and Noble) was received by Faculty Senate.

D. Service-Learning Committee, Almitra Medina

Professor Medina (Foreign Languages and Literatures) member of the Committee, presented the curriculum and academic matters acted on in the [January 10, 2023](#) meeting including the approval of Service-Learning (SL) designation for RCSC 4121 Tourism Planning and Development/6121 Tourism Planning and Entrepreneurship.

There were no questions, and the curriculum and academic matters acted on in the [January 10, 2023](#) meeting were approved as presented. **RESOLUTION #23-04**

E. Unit Code Screening Committee, Kenneth Ferguson

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Professor Ferguson (Philosophy and Religious Studies) presented the [revised School of Dental Medicine Unit Code of Operations and Departmental Promotion, Tenure, and Advancement Guidelines](#). He read out the proposed change to the language, which made the following change to the code:

- ii. The appropriate Department Chair will work with the Personnel Committee as they form a search committee for faculty positions ensuring diversity and emphasizing the mission of the School within the context of the search. Search committees for faculty positions will solicit and screen applicants, ~~and make recommendations to~~ **consulting as necessary with** the Department Chair or hiring authority, ~~who will then~~ **and** forward their recommendation for appointment to the Personnel Committee for recommendation of appointment rank or title.

There were no questions, and the [revised School of Dental Medicine Unit Code of Operations and Departmental Promotion, Tenure, and Advancement Guidelines](#) was approved as presented.

RESOLUTION #23-05

F. Research and Creative Activities Committee, Joi Walker

Professor Walker (Chemistry) presented formal faculty advice on the Regulation on Reporting and Responding to Allegations of Research Misconduct (formerly Regulation on Research Conduct). She said the committee was asked to review the policy and adjust as found in the Agenda.

Hong-Bing Su (Geography, Planning and Environment) asked has the document been checked with legal authorities.

Chair Ticknor said since the document is a Procedural Rule and Regulation (PRR) that it has been reviewed by legal counsel.

There were no more questions and the formal faculty advice on Regulation on Reporting and Responding to Allegations of Research Misconduct (formerly Regulation on Research Conduct).

RESOLUTION #23-06

Professor Walker then presented proposed revisions to *ECU Faculty Manual* Part VII, Section III. Ethics and Conduct in Research, Creative Activity, and Scholarship. These changes are meant to align with the revisions noted in the formal faculty advice.

There were no questions and the proposed revisions to *ECU Faculty Manual* Part VII, Section III. Ethics and Conduct in Research, Creative Activity, and Scholarship. **RESOLUTION #23-07**

G. Committee on Committees, Toyin Babatunde

Professor Babatunde (Allied Health Sciences) presented Thanh Ngo, Professor in the College of Business, as the nominee for the open 2024 term on the Appellate Committee.

The floor was opened for additional nominations. There were no additional nominations, so Thanh Ngo, Professor in the College of Business, was elected to the open 2024 term on the Appellate Committee.

H. Faculty Governance Committee, Mark Bowler

Professor Bowler (Psychology), Vice Chair of the Committee, presented formal faculty advice on the

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proposed Regulation on ADA Compliance and Reasonable Accommodations for Students, Employees, Applicants and Visitors. He said the committee agreed to the suggested PRR with marked changes.

There were no questions and the formal faculty advice on the proposed Regulation on ADA Compliance and Reasonable Accommodations for Students, Employees, Applicants and Visitors was approved as submitted. **RESOLUTION #23-08**

I. Agenda Committee, Meghan Millea

Professor Millea (Economics), Vice Chair of the Committee, presented revisions to Routine Business for Faculty Senate. She said there were suggestions to change the proposed reporting schedule for the Faculty Senate agenda to get rid of reports we do not need and add or keep other reports.

There were no questions and the revisions to Routine Business for Faculty Senate were approved as submitted. **RESOLUTION #23-09**

Agenda Item VII. New Business

There was no new business to come before the body at this time.

There being no further business, the meeting adjourned at 4:45 pm.

Submitted by,

Melinda Doty
Secretary of the Faculty
Engineering and Technology

Rachel Baker
Faculty Senate

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FACULTY SENATE RESOLUTIONS APPROVED AT THE JANUARY 24, 2023 MEETING

Resolution #23-01

Approved by the Faculty Senate: January 24, 2023

Received by the Chancellor: pending

Formal faculty advice on curriculum and academic matters acted on and recorded in the [December 12, 2022](#), Graduate Council meeting minutes, including level I action items from the [November 16, 2022](#), Graduate Curriculum Committee meeting minutes which were approved by its delegated authority and are reported here for informational purposes and policy action item (GC 22-11) recorded in the [December 12, 2022](#), Graduate Council meeting minutes, included a revision to the “General Requirements for Degrees and Certificates” policy in the Graduate Catalog to include language that clarifies expectations for what courses will make up a post- baccalaureate certificate vs. post-master’s certificate (proposed text can be viewed [here](#)).

Resolution #23-02

Approved by the Faculty Senate: January 24, 2023

Approved by the Chancellor: pending

Curriculum and academic matters acted on and recorded in the Undergraduate Curriculum Committee meeting of [November 10, 2022](#), including curricular actions in the following units:

- Department of Geography, Planning, and Environment within the Thomas Harriot College of Arts and Sciences
- Departments of Kinesiology and Health Education and Promotion within the College of Health and Human Performance

Curriculum and academic matters acted on and recorded in the Undergraduate Curriculum Committee meeting of [December 8, 2022](#), including curricular actions in the following units:

- Department of Biology and Interdisciplinary Programs within the Thomas Harriot College of Arts and Sciences
 - Departments of Kinesiology and Human Development and Family Science within the College of Health and Human Performance
-

Resolution #23-03

Approved by the Faculty Senate: January 24, 2023

Approved by the Chancellor: pending

Curriculum and academic matters acted on and recorded in the Educational Policies and Planning Committee meeting of [January 13, 2023](#), including the following actions:

- Request to Discontinue Graduate Certificate in Hispanic Studies in the Department of Foreign Languages and Literatures
 - Request to Deliver Online the Graduate Certificate in Gerontology in the School of Social Work
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Resolution #23-04

Approved by the Faculty Senate: January 24, 2023

Approved by the Chancellor: pending

Curriculum and academic matters acted on in the [January 10, 2023](#) meeting including the approval of Service-Learning (SL) designation for RCSC 4121 Tourism Planning and Development/6121 Tourism Planning and Entrepreneurship.

Resolution #23-05

Approved by the Faculty Senate: January 24, 2023

Approved by the Chancellor: pending

Revised School of Dental Medicine Unit Code of Operations and Departmental Promotion, Tenure, and Advancement Guidelines.

Resolution #23-06

Approved by the Faculty Senate: January 24, 2023

Received by the Chancellor: pending

Formal faculty advice on Regulation on Reporting and Responding to Allegations of Research Misconduct (formerly Regulation on Research Conduct)

The Committee was charged with reviewing the below revised version of the regulation originally titled "[Regulation on Research Conduct](#)." The original regulation (not the revised version) was moved from interim to permanent status in June 2022, before the Committee was able to offer formal advice on the proposed revisions. The version that appears below and on which the Committee offers advice is the revised version, with the Committee's proposed edits noted in the text.

Additions in **bold** and deletions in ~~strikethrough~~.

Policy	REG10.45.01
Title	Regulation on Responding to Allegations of Research Misconduct
Category	Research and Graduate Studies
Sub-category	Research Compliance
Authority	Chancellor
History	Effective July 13, 2012. This regulation supersedes and replaces the Interim Regulation on Research Conduct dated July 13, 2012.
Contact	Office of Research Integrity & Compliance Administration (252) 328-9473
Related Policies	UNC Policy Manual 500.7
Additional References	National Science Foundation Research Misconduct Regulation 45 CFR 689 Public Health Service Research Misconduct Regulation 42 CFR 93

1. Introduction

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ECU observes the highest standards of professional conduct and intellectual integrity in all of its scientific and research activities. A climate of intellectual honesty mandates that all scholars have an obligation to conduct research in a manner reflecting these principles and each member of the University community has a responsibility to foster such an environment. This responsibility governs not only the production and dissemination of research and creative activities, but also all applications for funding, reports to funding agencies, teaching, and publication of teaching materials.

ECU's definition of research misconduct, and procedures for investigating and reporting allegations of misconduct, conform to the definitions and regulations of those federal funding agencies which have policies on this subject.

2. Purpose

This statement of policy and procedures is intended to carry out this institution's responsibilities under the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93 as well as those of other federal sponsors.

3. Scope and Applicability

3.1 This regulation applies to any person paid by, under the control of, an agent of, or affiliated by contract or agreement with the institution at the time of the alleged misconduct. This includes scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at ECU. The regulation and associated procedures will normally be followed when an allegation of possible research misconduct is received by the Research Integrity Officer (RIO). Particular circumstances in an individual case may dictate variation from the usual procedures when deemed to be in the best interests of the University or required by relevant federal regulations or agency procedures. Any significant variation from this Policy and associated procedures must be approved in advance by the Vice Chancellor for Research, Engagement and Economic Development (REDE) who also serves as the Deciding Official.

3.2 This regulation applies to all scientific and research activities whether or not the activity is funded.

3.3 This regulation does not apply to authorship or collaboration disputes.

4. Policy Statement

4.1 All employees or individuals associated with ECU as defined in section 3.1 should report observed, suspected, or apparent research misconduct to the Research Integrity Officer. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may contact the Research Integrity Officer to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of research misconduct, the Research Integrity Officer will refer the individual or allegation to other offices or officials with the responsibility for resolving the issue.

4.2 Allegations of Research Misconduct occurring more than six years prior to submission of the allegations shall not be reviewed under this Policy unless applicable federal regulations require review of such allegations, or the alleged Research Misconduct was not reasonably discoverable at an earlier time, or the Research Misconduct poses a current threat to the health and safety of employees, patients, or research subjects.

5. Definitions

5.1 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 made to the RIO.

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5.2 Conflict of Interest, as used in this Regulation, means the real or apparent interference of one person's interests with the interests of another person where potential bias may occur due to prior or existing personal or professional relationships.

5.3 Complainant means a person who makes an allegation of research misconduct. There may be more than one Complainant in a given case.

5.4 Evidence means any document, tangible item, or testimony offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

5.5 Research means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. For the purpose of this Regulation, Research includes all basic, applied, and demonstration research in all academic disciplines to include the arts, basic sciences, liberal arts, applied sciences, social sciences, clinical sciences, the professions, and research involving human subjects or animals.

5.6 Research Misconduct as defined by the federal government means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Fabrication is making up results and recording or reporting them; 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; plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

5.7 Respondent means a person or person(s) against whom allegations of research misconduct are made. There may be more than one Respondent in a given case.

5.8 Good faith as applied to a complainant(s), respondent(s) or witness(es), means having a belief in the truth of one's allegation or testimony that a reasonable person in the same position could have 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 or her other 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.

5.9 Inquiry means preliminary information gathering and preliminary fact-finding to determine whether an allegation or apparent instance of research misconduct has substance and warrants an investigation.

5.10 Investigation means the formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct which may include a recommendation for other appropriate actions, including administrative actions.

5.11 Notice means a written communication served in person, sent by mail or its equivalent, to the last known street address, facsimile number, or e-mail address of the addressee.

5.12 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.

5.13 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,

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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.

5.14 Research Integrity Officer (RIO) is the institutional official responsible for 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. The RIO is also responsible for sequestering research records upon determining criteria for an inquiry are met; overseeing inquiries and investigations; and the other responsibilities outlined in this Regulation. This Regulation provides the RIO with individual authority to direct the sequestration of research records. The university's RIO is the Director of the Office of Research Integrity & Compliance.

5.15 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, Economic Development, and Engagement (REDE). In the event that the Vice Chancellor for REDE has a conflict of interest in a particular case, the Chancellor shall appoint a designee as the DO for that particular case.

5.16 Retaliation means any adverse action taken against an individual in response to a good faith allegation of research misconduct, or good faith cooperation with research misconduct proceedings of the University.

6. Responsibilities of the Research Integrity Officer

6.1 The RIO will be appointed by the Vice Chancellor for REDE and will have primary responsibility for implementing compliance with this Regulation. These responsibilities include the following as they relate to research misconduct proceedings:

6.1.1 Assess each allegation of research misconduct in accordance with Section 11.1.1 of this Regulation to determine whether it falls within the definition of research misconduct and warrants an inquiry;

6.1.2 Take interim action as necessary, and notify sponsors of special circumstances in accordance with Section 10.6.2 of this Regulation;

6.1.3 Sequester research records and evidence pertinent to the allegation of research misconduct in accordance with Section 11.3. of this Regulation and maintain sequestered records in a secure manner;

6.1.4 Provide confidentiality to those involved in the research misconduct proceeding as required by applicable law and University policy;

6.1.5 Notify the respondent and provide opportunities for him or her to review and respond to allegations, evidence, and committee reports in accordance with Sections 12.2 and 14.2.1 of this Regulation;

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- 6.1.6 Inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;
- 6.1.7 Ensure that the Deciding Official appoints the members and chair of the inquiry and investigation committees and there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
- 6.1.8 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;
- 6.1.9 In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, **respondents**, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other institutional members;
- 6.1.10 Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of research misconduct;
- 6.1.11 Notify and make reports to federal agencies as required by applicable law or regulation;
- 6.1.12 Take appropriate action to notify other involved parties, such as law enforcement agencies, professional societies, and licensing boards of corrective actions;
- 6.1.13 Maintain records of the research misconduct proceeding and make them available to federal agencies in accordance with Section 14.5 of this Regulation; and
- 6.1.14 If the research misconduct allegation is made against a Respondent who is a student, notify the Office of Student Rights and Responsibilities (OSSR) prior to the investigation phase (if applicable) and inform the Respondent that such notification will be made.

7. Responsibilities of the 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 be provided the transcript or recording of the interview for correction if needed.

8. Rights and Responsibilities of the Respondent

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

- 8.1.1 A good faith effort from the RIO to be notified in writing at the time of or before beginning an inquiry;
- 8.1.2 An opportunity to comment on the inquiry report and have his or her comments attached to the report;
- 8.1.3 Be notified of the outcome of the inquiry and receive a copy of the inquiry report that includes a copy of, or refers to any applicable regulation of a federal sponsor and this Regulation;
- 8.1.4 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 a decision is made to begin an investigation).
- 8.1.5 Be notified in writing of any new allegations not addressed in the inquiry or in the initial notice of investigation;

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8.1.6 Be interviewed during the investigation, have the opportunity to review and correct, if necessary, the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;

8.1.7 Have any witness interviewed during the investigation 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

8.1.8 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, 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.

8.2 The Respondent should be given the opportunity to admit that research misconduct occurred and that he or she committed the research misconduct. With the advice of the RIO, the Deciding Official may terminate the institution's review of an allegation that has been admitted, provided the institution accepts the admission and any proposed settlement is approved by any federal agency having authority and jurisdiction.

9. Responsibilities of the Deciding Official

9.1 The DO will receive the inquiry report and after consulting with the RIO, 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.

9.2 The DO will receive the investigation report and, after consulting with the RIO, decide the extent to which he or she accepts the findings of the investigation. If research misconduct is found, the DO will 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.

10. General Policies and Principles

10.1 Responsibility to Report Misconduct

10.1.1 All individuals associated with ECU as defined in section 3.1 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 issue.

10.1.2 Any individual affiliated with the University may have discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

10.2 Cooperation with Research Misconduct Proceedings

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All individuals associated with ECU as defined in section 3.1 will cooperate with the RIO and other university 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 university officials.

10.3 Confidentiality

The RIO shall 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 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.

10.4 Protecting complainants, **respondents**, witnesses, and committee members

Individuals affiliated with ECU as defined in section 3.1 may not retaliate in any way against complainants, **respondents**, witnesses, or committee members. Any alleged or apparent retaliation against complainants, **respondents**, witnesses or committee members should immediately be reported to the RIO, who shall review the matter and make all reasonable and practical efforts to counter any potential or actual retaliation. This includes efforts to protect and restore the position and reputation of the person against whom the retaliation is directed.

10.5 Protecting the Respondent and Use of Legal Counsel

10.5.1 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.

10.5.2 During the research misconduct proceeding, the RIO is responsible for ensuring that Respondents receive all the notices and opportunities required under 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 adviser 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 or she may not act in a representative capacity or otherwise actively participate in interviews, meetings, or hearings.

10.5.3 The University shall provide legal counsel to assist the RIO, DO, inquiry committee, 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.

10.6 Interim Administrative Actions

10.6.1 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.

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10.6.2 The RIO shall, in consultation with the DO, at any time during a research misconduct proceeding, notify any federal agency with jurisdiction and authority immediately if he or she has reason to believe that any of the following conditions exist:

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

10.6.2.2 Federal resources or interests are threatened;

10.6.2.3 Research activities should be suspended;

10.6.2.4 There is a reasonable indication of possible violations of civil or criminal law;

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

10.6.2.6 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

10.6.2.7 The research community or public should be informed.

11. Conducting the Assessment and Inquiry

11.1 Assessment of Allegations

11.1.1 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.

11.1.2 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 13.2 of this section.

11.2 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 inquiry process begins with the first meeting of the inquiry committee or individual responsible for conducting the inquiry. 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.

11.3 Notice to Respondent; Sequestration of Research Records

The RIO must make a good faith effort to notify the respondent in writing before beginning the inquiry, if the respondent is known. If the inquiry subsequently identifies additional Respondents, they must be notified in writing as soon as practicable.

11.4 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

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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.

11.5 Appointment of the Inquiry Committee

The DO, in consultation with the RIO and other institutional officials as appropriate, will appoint an inquiry committee and chair, as soon after the RIO has determined that an allegation is sufficiently credible and specific. In some instances, a single individual may be appointed to conduct the inquiry. The individual conducting the inquiry or inquiry committee 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 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 five (5) calendar days from the date of the notification. The RIO will make the final determination of whether a conflict exists.

11.6 Charge to the Committee and First Meeting

11.6.1 The RIO will prepare a charge for the inquiry committee that:

11.6.1.1 Sets forth the time for completion of the inquiry;

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

11.6.1.3 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;

11.6.1.4 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.

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

11.6.2 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.

11.7. Inquiry Process

The inquiry committee may interview the complainant, the respondent, and key witnesses as well as examine relevant research records and materials. The inquiry committee will then evaluate the evidence, to include the testimony of any complainants, respondents and key witnesses obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on their preliminary

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information gathering and fact-finding. 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 in accordance with Section 15.2.

11.8 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. Initiation of the inquiry begins on the date of the first meeting of the inquiry committee where it receives its charge. 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.

12. The Inquiry Report

12.1 Elements of the Inquiry Report

12.1.1 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.

12.1.2 Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the inquiry committee. 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.

12.2 Notification to the Respondent and Opportunity to Comment

12.2.1 The RIO shall notify the respondent whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment(s) usually within ten (10) calendar days, and include a copy of or refer to this Regulation and any pertinent federal sponsor regulation

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

Notification to the Complainant

The RIO may notify the complainant whether the inquiry found an investigation to be warranted.

12.3 Institutional Decision and Notification

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12.3.1 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.

12.3.2 Notification to 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.

12.3.3 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.

13. Conducting the Investigation

13.1 Initiation and Purpose

13.1.1 The investigation must begin within thirty (30) calendar days after the determination by the DO that an investigation is warranted. For the purpose of this Regulation, the investigation begins when the investigation committee meets for the first time and is given its charge by the RIO.

13.1.2 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.

13.1.3 The findings of the investigation must be set forth in an investigation report.

13.2 Notifying Respondent; Sequestration of Research Records

13.2.1 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.

13.2.2 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

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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. 13.3. Appointment of the Investigation Committee

13.3.1 The DO, in consultation with the RIO and other institutional officials as appropriate, will appoint an investigation committee and committee chair. 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. Individuals appointed to the investigation committee may also have served on the inquiry committee. When necessary to secure the necessary expertise or to avoid conflicts of interest, the DO may select committee members from outside the University.

13.3.2 The respondent will be notified of the proposed committee membership and given an opportunity to object to a proposed member or members 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 five (5) calendar days from the date of the notification. The RIO will make the final determination of whether a conflict exists.

13.4 Charge to the Committee and First Meeting

13.4.1 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.

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

13.4.2.1 Describes the allegations and related issues identified during the inquiry;

13.4.2.2 Identifies the respondent(s);

13.4.2.3 Defines research misconduct;

Informs the committee of the following:

13.4.2.4 it must conduct the investigation as prescribed in paragraph 7.5 of this section;

13.4.2.4.1 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;

13.4.2.4.2 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

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13.4.2.2.4.3 it must prepare or direct the preparation of a written investigation report that meets the requirements of this Regulation and applicable law or regulation.

13.5. Investigation Process

The investigation committee must:

13.5.1 Use diligent efforts to ensure that the investigation is thorough and sufficiently documented, including examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;

13.5.2 Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;

13.5.3 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

13.5.4 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.

13.6 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.

13.6.1 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.

13.6.2 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.

14. The Investigation Report

14.1 Elements of the Investigation Report

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

14.1.1 Describes the nature of the allegation of research misconduct, including identification of the respondent;

14.1.2 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;

14.1.3 Describes the specific allegations of research misconduct considered in the investigation;

14.1.4 Includes the University policies and procedures under which the investigation was conducted;

14.1.5 Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and

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14.1.6 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.

14.2 Comments on the Draft Report and Access to Evidence

14.2.1 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.

14.2.2 Complainant

On a case-by-case basis, the RIO may provide the complainant a copy of the relevant portions of the draft investigation report for comment. The complainant will be allowed thirty (30) calendar days from the date he/she receives 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.

14.2.3 Confidentiality

In distributing the draft report, or portions thereof, to the respondent or complainant, 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. **Once the inquiry and/or investigation is underway, the RIO is to establish if there has been any breach of confidentiality and contact the involved individual(s) to re-establish and enforce confidentiality.**

14.3 Decision by Deciding Official

14.3.1 The RIO will assist the investigation committee in finalizing the draft investigation report, and ensure that the respondent's and complainant's comments, if applicable, are included and considered. The final investigation report will be transmitted 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.

14.3.2 If the DO's 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.

14.3.3 When a final decision on the case has been reached, the RIO will normally notify both the respondent and the complainant in writing. If the finding of research misconduct requires informing ORI, the DO will determine

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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.

14.3.4 The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

14.3.5 In the case that the complainant(s), respondent(s), witness(es), or committee member(s) are dissatisfied with the final decision of the DO, they may initiate an appeals process, as described in Part XII of the Faculty Manual.

14.4 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.

14.5 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.

15. Completion of Cases; Reporting Premature Closures to Federal Agencies

15.1 Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently.

15.2 Pursuant to 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.

16. 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. Administrative actions may include:

16.1 Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;

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16.2. 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;

16.3 Restitution of funds to the grantor agency as appropriate; and

16.4 Other action appropriate to the research misconduct, including, but not limited to, the imposition of sanctions, up to and including termination from employment.

17. Other Considerations

17.1 Termination, Resignation, or Withdrawal Prior to Completing Inquiry or Investigation

17.1.1 The termination of the respondent's institutional employment or other affiliation with the university, 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.

17.1.2 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.

17.1.3 If the respondent is a student and without admitting to the misconduct, elects to withdraw from the university before or after an allegation of research misconduct has been reported, it will not preclude or terminate the research misconduct proceeding or otherwise limit any of the University's responsibilities to investigate the alleged misconduct.

17.2 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.

17.3 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.

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17.4 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.

Resolution #23-07

Approved by the Faculty Senate: January 24, 2023

Approved by the Chancellor: pending

Revisions to *ECU Faculty Manual* Part VII, Section III. Ethics and Conduct in Research, Creative Activity, and Scholarship.

The below revisions are proposed to bring the information in the *ECU Faculty Manual* into alignment with the revisions proposed to the regulation (see Regulation on Reporting and Responding to Allegations of Research Misconduct in Resolution #23-06). The regulation is restricted to research conduct, but the *Faculty Manual's* entry is broader and includes ethics and conduct in creative activity and scholarship, in addition to research.

Additions in **bold** and deletions in ~~strikethrough~~.

I. Introduction

A. General Policy

All East Carolina University faculty 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 East Carolina University faculty. 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.

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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(s), respondent(s), or witness(es) 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

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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 V. (A.) of this Section 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 IV. (F.) of this Section 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 V. (C.) of this Section 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;

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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, **respondents**, 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 VIII. (D). of this.

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

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- 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. (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. ECU faculty 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

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of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

B. Cooperation with Misconduct Proceedings

All ECU faculty 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, **respondents, witnesses, and committee members**

ECU faculty may not retaliate in any way against complainants, **respondents**, witnesses, or committee members. Any such retaliation is itself serious, and shall be subject to sanction. Any alleged or apparent retaliation against complainants, **respondents**, 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 adviser 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

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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

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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~~ **ten (10) business** 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

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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

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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.

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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;

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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. **Once the inquiry and/or investigation is underway, the RIO is to establish if there has been any breach of confidentiality and contact the involved individual(s) to re-establish and enforce 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

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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.

- 3. In the case that the complainant(s) or respondent(s) are dissatisfied with the final decision of the DO, they may initiate an appeals process, as described in Part XII of the Faculty Manual.**

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;

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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

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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 Institutional 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

(FS Resolution #13-63, April 2013)

Resolution #23-08

Approved by the Faculty Senate: January 24, 2023

Received by the Chancellor: pending

Formal faculty advice on Proposed Regulation on ADA Compliance and Reasonable Accommodations for Students, Employees, Applicants and Visitors.

The Faculty Governance Committee proposes one revision to the regulation, which appears in the text of the regulation below (with additions in **bold** and deletions in ~~strikethrough~~). The Committee also adds the following comment to explain their proposed revision:

Faculty Governance Committee recommends: (1) The sanction needs to be proportionate to the violation. (2) Rather than create a new procedure for adjudicating violations with this paragraph, the PRR should invoke existing due process, such as the recently-ratified PRR on discrimination.

Related Policies

Notice of Nondiscrimination and Affirmative Action

Resolving Allegations of Discrimination

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Student Conduct Process

Purpose

East Carolina University is committed to equality of opportunity and prohibits unlawful discrimination based on disability as established by ECU's *Notice of Non-Discrimination and Affirmative Action Policy*. Consistent with ECU's commitments and obligations to nondiscrimination, this Regulation provides for the framework for complying with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), and the ADA Amendments Act of 2008 (ADAAA) in providing accommodations to students, employees, applicants, and visitors. In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the University will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. Further, ECU does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA.

Both Section 504 and the ADA require that the University provide equal opportunity to individuals with disabilities to participate in, and receive the benefits of, the educational program, and require that the University provide accommodation or modifications to qualified individuals with a disability. The University is not required to make an accommodation that would impose an undue hardship on the operation of the University's business or would change the essential functions of an employee's position, and no fundamental or substantial alteration of academic standards will be made in regard to reasonable accommodations for students.

The University prohibits retaliation against an individual who requests an accommodation in good faith.

The Office of the ADA Coordinator

The Office of the ADA Coordinator is responsible for coordinating the efforts associated with University policies and procedures relating to persons with disabilities to assure compliance with the ADA and other federal and state laws and regulations pertaining to persons with disabilities. The Office of the ADA Coordinator collaborates with the Office of Disability Support Services, the ADA Accessibility Committee, ECU Facilities Operations, Environmental Health and Safety, and the IT Accessibility Committee, among others, to help serve students and employees who qualify for accommodations under the Americans with Disabilities Act.

Additionally, the Office of the ADA Coordinator has responsibility for ADA compliance and for engaging in an interactive process to determine whether an employee, applicant or visitor is a qualified individual with a disability for the purposes of providing a reasonable accommodation.

The Office of the ADA Coordinator may be contacted at:

ECU Human Resources – Building 127 - 210 E. 1st St. Greenville, NC 27858

252-737-1018

ADA-Coordinator@ecu.edu

Scope of Applicability

This Regulation applies to all University employees, applicants for employment while they are participating in the application process, as well as visitors to campus or those participating in University sponsored events. In addition, the

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University offers reasonable accommodations to students with eligible documented learning, physical and/or psychological disabilities.

Definitions

1. *Disability* - The term "Disability" means, with respect to an individual:
 - a. a physical or mental impairment that substantially limits one or more Major Life Activities of such individual;
 - b. a record of such an impairment;
 - c. being Regarded as Having such an Impairment; or
 - d. an impairment that is episodic or in remission if it substantially limits a Major Life Activity when it is active
2. *Employee* - Individuals employed by the University including faculty members, EHRA non-faculty employees, SHRA employees, graduate, professional and doctoral students, post-doctoral scholars, and student employees.
3. *Essential Function(s)* - the fundamental duties of the position or the primary reasons the position exists.
 - a. The University is not required to eliminate an essential function from the position, or to lower quality or performance standards to make an accommodation, as long as those standards are applied uniformly to employees with or without a disability. The University is not required to create a new position to accommodate an employee. The University makes a determination as to whether a job function is "essential" on a case-by-case basis. Some of the factors used in determining whether a job function is essential are:
 - i. whether the reason the position exists is to perform that function;
 - ii. the number of other employees available to perform the function or among whom the performance of the function can be distributed; and
 - iii. the degree of expertise or skill required to perform the function.
4. *Has a Record of an Impairment* - An individual has a record of an impairment if that individual has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.
5. *Major Life Activities* - In General - major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.
6. *Major Bodily Functions* - a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.
7. *Qualified Individual with a Disability* - An employee or applicant for employment who, with or without a reasonable accommodation can perform the essential functions of the position.
8. *Reasonable Accommodation* - A modification or adjustment to a position, an employment practice, or the work environment that makes it possible for a qualified individual with a disability to perform the essential functions of the position.
 - a. Reasonable Accommodations may include, but are not limited to:
 - i. Making existing facilities readily accessible to and usable by persons with disabilities;
 - ii. Job restructuring, modifying work schedules, reassignment to a vacant position;
 - iii. Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters;
 - iv. Making a website or digital information accessible; or
 - v. Allowing leave as an accommodation.

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- b. The University is not obligated to and will not provide personal use items needed in accomplishing daily activities (e.g. eyeglasses, hearing aids, prosthetic limbs, or a wheelchair).
9. *Regarded as Having such an Impairment* - An individual is regarded as having such an impairment if the individual establishes that he or she has been subjected to an action prohibited by the ADA because of an actual or perceived physical or mental impairment, whether or not the impairment substantially limits or is perceived to substantially limit a major life activity.
 - a. When determining if a condition is a disability under this policy, the University will not take into consideration any "mitigating measures" such as prescription drugs, medical equipment, prosthetics or other remedies, beyond ordinary eyeglasses or contact lenses.
10. *Student* - anyone registered for an academic course at the University, including but not limited to, undergraduate and graduate students who are classified as degree or non-degree seeking, as well as visiting students, medical students, dental students, professional students, and students studying abroad.
11. *Substantially Limiting* - An impairment is a disability under this policy if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting.
12. *Undue Hardship* - An accommodation or action requiring significant difficulty or expense when considered in light of factors such as the University's size, financial resources, and the nature and structure of its operation. undue hardship also refers to an accommodation that is unduly extensive, substantial, or disruptive, or one that would fundamentally alter the nature of the position.

ADA Accommodations for Employees, Applicants, Visitors and Guests

The Office of the ADA Coordinator facilitates the interactive process and determines reasonable accommodations for ECU Employees and Qualified Individuals with a Disability based on appropriate documentation, including medical information and recommendations from treating providers, and essential functions of the job position.

It is the responsibility of the employee to contact the ADA Coordinator when seeking reasonable accommodations. Additionally, supervisors who have been notified by an employee of an accommodation need should contact the Office of the ADA Coordinator for assistance.

The University is not required to make an accommodation that would impose an undue hardship on the operation of the University's business or would change the essential functions of an employee's position. Additionally, ECU is not obligated to provide personal use items needed in accomplishing daily activities both on and off the job (i.e., eyeglasses, hearing aids, prosthetic limbs, or wheelchair), and is not required to provide personal use amenities, such as a refrigerator, if those items are not provided to employees without disabilities.

The procedures and interactive process for ECU employees seeking accommodations are provided by the Standard Operating Procedure (SOP) "ADA Accommodation Requests for Employees, Applicants, Visitors, and Guests" implemented under this Regulation, which can be found under additional resources above.

ADA Accommodations for Students

Disability Support Services (DSS) determines reasonable academic accommodations for students, based on appropriate documentation and the academic requirements of the individual program. DSS also considers the current academic needs of students as well as accommodations that have been used in previous educational settings.

It is the responsibility of the student to contact Disability Support Services (DSS) to initiate the process to develop an accommodation plan. This accommodation plan will not be applied retroactively. Appropriate, reasonable

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accommodations will be made to allow each student to meet course requirements, but no fundamental or substantial alteration of academic standards will be made.

To register with the Office of Disability Support Services (DSS) a student must:

1. Be an enrolled student at ECU
2. Contact the DSS office to arrange for an intake appointment.
3. Provide the Office of DSS with current documentation of a Disability (or Disabilities).
4. Complete intake appointment with DSS staff.
5. Accommodations will be reviewed and approved through Disability Support Services
6. Student should meet with DSS staff to review approved Accommodations and pick up Accommodation Forms.

ECU provides academic accommodations through the Disability Support Office on campus. The decision whether a condition is substantially limiting to support an accommodation request is made by the appointed qualified professionals on campus. This decision is based upon multiple sources of information using an individualized assessment. The Office of DSS consists of appointed professional staff who determine disability eligibility and accommodation decisions on a case-by-case basis.

Confidentiality

Information regarding requests for accommodations will be kept confidential and shared with others only if they have a legitimate business reason to know. Supervisors and managers will be informed of the functional limitations of an employee caused by the physical or mental impairment.

ADA Accessibility Committee

The ADA Accessibility Committee is established to receive, collect, consider, and advise upon information related to disability and accessibility compliance across campus. The Committee is advisory only and does not have authority to impose requirements on students, faculty, staff, or visitors. The team members are selected for their expertise and interaction with ADA and disability compliance matters.

The purpose of the ADA Accessibility Committee is to serve as the primary assembly to collaborate and facilitate on-going updates to the ADA self-assessment and transition plans. The Committee will assess various accommodation issues, resource needs, recommend any corrective actions needed to address campus environmental concerns, and monitor reports for any patterns or trends. The ADA Accessibility Committee will convene (in person, by telephone, or by videoconference) quarterly or as needed to review information received from a report of accessible barriers, and to review new, relevant information as it becomes available. Members of the ADA Accessibility Committee are nominated by their respective University senior leadership officials and are confirmed by the Vice Chancellor for Administration & Finance. The ADA Accessibility Committee includes select members of the University's professional staff and shall include, at a minimum: the ADA Coordinator (Chair of the Committee); the Director of the Office of Disability Support Services; and representatives from other relevant offices (e.g., Human Resources, Internal Audit, Office for Equity and Diversity, Facilities). A representative of the Office of University Counsel will serve as an advisor to the Committee.

Complaint Procedures

The University provides internal procedures for the investigation and resolution of complaints alleging discrimination, harassment, or retaliation under the University's policy and this regulation. The process for bringing a complaint against a University employee is described in *the Resolving Allegations of Discrimination* Regulation. The process for bringing a complaint against a University student are governed by the *Student Conduct Process* Regulation.

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If an employee believes that a determination regarding eligibility for a reasonable accommodation or provision of a reasonable accommodation has been reached improperly or unfairly, the employee may contact the ADA Coordinator to seek resolution or may file a complaint with the Office of Equity and Diversity 252-328-6804 or OED@ecu.edu.

Consequences of Violation of Regulation

Any member of the University community who violates any aspect of this policy is subject to corrective or disciplinary action, **consistent with due process** including, but not limited to, termination of employment or termination from educational programs.

Resolution #23-09

Approved by the Faculty Senate: January 24, 2023

Approved by the Chancellor: not applicable (included for information only)

Revisions to Routine Business of Faculty Senate.

Parts of the agendas of the Faculty Senate are determined by routine reports that are presented each year. The Agenda Committee is making changes to this structure to allow for more flexibility to respond to emerging information and to make better use of the meeting time. Below is their proposal.

Reports to Keep

Director of Athletics and Chair of Athletics Committee and Academic Integrity Subcommittee

- *Rationale:* The faculty benefits from understand the steps currently being taken by the Director of Athletics and their staff to ensure that ECU athletics remains fully in compliance with all rules, regulations, and policies that apply to ECU's student athletes, athletics faculty, and staff and to each of ECU's athletic programs.

Report from Administration and Finance on Parking and Traffic Matters

- *Rationale:* Reports updating the faculty on the effective and efficient use of the university's parking resources are essential to sound planning for the future.

Reports to Remove

Report from the Director of Admissions on freshman class and home-schooled admissions

- *Rationale:* given enrollment issues, Faculty Senate time is better spent requesting targeted reports that will allow for faculty input and questions into other aspects of admissions

Statistical Report from Equity and Diversity Office on diversity among faculty and administration

- *Rationale:* The Faculty Senate added the Committee on Diversity, Equity, and Inclusion as one of its standing academic committees in 2021. The Chief Diversity Officer and Associate Provost for Equity and Diversity and the Executive Director for the Office for Faculty Excellence are both members of that Committee, which allows for more frequent communication, collaboration, and robust discussion with the Faculty Senate about diversity initiatives through the Committee's work and reports.

Report from Chancellor on employment category of all faculty

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- *Rationale:* the contents of this report are now accessible through an established university dashboard from IPAR, so faculty can access this data at any time. Furthermore, the motivation for this report was to understand the trends toward the hiring of more fixed-term faculty over the years. That trend has been well-established and the focus of many of the standing academic committees that report to Faculty Senate has been to work on specific initiatives to strengthen the protections for fixed-term faculty and to make their personnel processes and paths toward advancement in title and multi-year contracts clearer.

Reports to Add

- Invite Chair of the Board of Trustees to address the Faculty Senate at least once a year
- Stricter adherence to existing requirements in committee charges that standing academic committees present to Faculty Senate at least once a year (most already present at least once).