4.6.008 Academic Research Misconduct Policy

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Approvals:	Vice President of Academics and Executive Educational Council (EEC)
Responsible office:	Applied Technology Center™
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I. PURPOSE and SCOPE

The Milwaukee School of Engineering (MSOE) Academic Research Misconduct Policy is concerned with the integrity of academic research conducted by faculty, staff and students at MSOE and the procedures for addressing allegations of academic research misconduct. MSOE has long recognized that honesty is an essential component of scholarly activity. The MSOE Policy on Student Integrity states: "The university has a priority interest in promoting personal integrity and in ensuring the authenticity of its graduates' credentials. The university is similarly mindful that the professions, business and industry are concerned with ethical behavior no less than the professional practice of their members and employees. Therefore, MSOE students preparing for professional careers and leadership roles that are founded on responsibility and trust, must observe and be guided by the highest standards of personal integrity both in and out of the classroom."

Circumstances not covered by this document:

A. Misuse by a researcher of university funds, (including grant and contract funding from extramural sponsors) as outlined in MSOE's Cost Allocation Policy, may be cause for discipline or dismissal and may be cause for criminal prosecution. However, an allegation of misuse of funds is not within the scope of this policy; such an allegation shall be referred promptly to the CFO or President.
B. A violation of institutional procedures or federal regulations on the protection of human or animal research subjects or a violation of state or federal safety laws or regulations is also not within the scope of this policy. An allegation regarding any such violation shall be promptly referred to the designated Institutional Official of the Institutional Review Board at MSOE.
C. A violation of all forms of harassment or intimidation based on age, race, creed, color, handicap, marital status, sex, national origin, ancestry, sexual orientation or any other proscribed basis of employment discrimination is

also not within the scope of this policy. An allegation regarding any such violation shall be promptly referred to the Human Resources department.

II. RELATED POLICIES

Faculty Misconduct, Student Integrity

III. DEFINITIONS:

For purposes of these procedures, the definition of misconduct in scholarly research and criteria for findings are based upon the criteria listed in the federal regulations and definitions established by the U.S. Department of Health and Human Services, Office of Research Integrity, under 42 C.F.R. Part 93 (Public Health Service Policies on Research Misconduct), which implement and expand upon the Federal Policy on Research Misconduct originally published by the U.S. Office of Science and Technology Policy (65 FR 76260-76262, December 6, 2000).

Research[2] Misconduct: Research misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.

Fabrication: Making up data or results and recording or reporting them.

Falsification: 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.[3]

Plagiarism: The appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Findings of Research Misconduct: A finding of research misconduct requires that:

- There be a significant departure from accepted practices of the relevant research community; and
- The misconduct be committed intentionally, or knowingly, or recklessly; and,
- The allegation be proven by a preponderance of evidence

Notes

[1] No rights, privileges, benefits, or obligations are created or abridged by issuance of this policy alone. The creation or abridgment of rights, privileges, benefits, or obligations, if any, shall occur only upon implementation of this policy by the Federal agencies.

[2] Research, as used herein, includes all basic, applied, and demonstration research in all fields of science, engineering, and mathematics. This includes, but is not limited to, research in economics, education, linguistics, medicine, psychology, social sciences, statistics, and research involving human subjects or animals.

[3] The research record is the record of data or results that embody the facts resulting from scientific inquiry, and includes, but is not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.

IV. POLICY STATEMENT

General Provisions:

A. The goal of the procedures outlined below is to assure the integrity of scholarly research, to achieve a rapid and equitable resolution of all charges and to assure that all parties are treated with fairness. In order to protect the reputation of an innocent party, the procedures will preserve the maximum level of confidentiality consistent with law and with justice for all parties to these procedures. All parties will at all times take whatever action is required to avoid any unnecessary conflict of interest.

B. At any stage of the inquiry or hearing process, the **Executive Vice President of Academics (EVPA)** will be notified if the following conditions exist:
   a. there is an immediate health hazard involved,
   b. there is an immediate need to protect federal funds or equipment,
   c. there is an immediate need to protect the interests of any person making the allegation or of any individual who is the subject of an allegation as well as his or her co-investigators and associates,
   d. it is probable that the alleged incident is going to be reported publicly, or
   e. there is a reasonable indication of possible criminal violation.

C. Where an inquiry, review, or hearing results in a finding that no misconduct has occurred, the university will not institute a new inquiry, review, or hearing into an allegation of misconduct. If the allegation is made against the same person and is based on material facts, which were reviewed and found not to constitute misconduct during the prior inquiry, review, or hearing, unless new material evidence is presented by a different complainant, or unless the person who is the subject of the inquiry, review, or hearing requests another proceeding.

D. Because of the difficulties of assessing stale claims and the unfairness to the person against whom the allegation is made, allegations based on conduct which occurred six years or more prior to the making of the allegation will not be inquired into under this policy subject to the following exceptions:
   - The six year time limitation does not apply if the respondent continues or renews any incident of alleged research misconduct that occurred before the six year period through the use of, republication of, or citation to the portion(s) of the research record alleged to have been fabricated, falsified, or plagiarized, for the potential benefit of the respondent ("subsequent use exception"; 42 CFR § 93.104(b)(1)). For alleged research misconduct that appears subject to this subsequent use exception, but MSOE determines is not subject to the exception, the institution will document its determination that the subsequent use exception does not apply and will retain this documentation for the later of seven years after

completion of the institutional proceeding or the completion of any federal proceeding.

- The six-year time limitation also does not apply if MSOE determines that the alleged research misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.

V. PROCEDURE

A. Institutional Assessment:

1. The purpose of the assessment is to determine whether an allegation of research misconduct warrants an inquiry.

   a. Any individual who becomes aware of a potential instance of research misconduct must promptly report the concern to Department Chair and/or Dean of Applied Research (DAR). The DAR is responsible for assessing all reports of possible misconduct to determine whether they meet the criteria for an inquiry. Anonymous allegations may be reviewed if they contain sufficient specificity and credibility to allow assessment.

B. Filing a Formal Allegation of Misconduct:

   a. A written and signed allegation of academic research misconduct is brought to a superior, Department Chair and/or to the Dean of Applied Research (DAR). Each person approached must, without exception, forward the written allegation to the Executive Vice President of Academics (EVPA).
   b. The EVPA decides whether the allegation of academic research misconduct is credible, non-frivolous and serious. Secondarily, the EVPA decides whether the allegation falls within the scope of research misconduct policy or whether it should be resolved by other methods as described in Section A. above.
   c. If the EVPA decides that the allegation of academic research misconduct is credible, non-frivolous and serious, and that the allegation falls within the policy described here, the EVPA must document the assessment, notify the President and forward the written and signed allegation.
   d. The President then decides whether the allegation is serious, credible and non-frivolous.
   e. If the EVPA, or subsequently the President, determines that the assessment does not constitute serious, credible and non-frivolous misconduct in scholarly research, the EVPA will notify both the person who brought the allegation and the person against whom the allegation was lodged in writing that the process has been terminated. That correspondence from the EVPA will be kept on file for seven years. The accused will be given a copy of the original, formal allegation.
   f. If the allegation meets criteria for an inquiry, the funding agencies and DAR are notified of the allegation by the EVPA. In addition, the

President asks the EVPA to convene a Committee of Inquiry (COI) within 30 days. The COI is charged with conducting a thorough investigation into the allegation.

g. The EVPA simultaneously notifies the defendant in writing of the convening of the COI. The accused will be given a copy of the original, formal allegation.

C. Institutional Inquiry:
    a. The COI shall have the competence and appropriate scientific expertise appropriate for the inquiry. This committee shall consist of at least three individuals who have no responsibility for the research being investigated, who can be impartial, and who have no interests which would conflict with the university's interest in securing a fair and thorough inquiry. The COI may include an individual from outside of MSOE who has appropriate expertise.
    b. The purpose of the COI is to gather and review all relevant factual information. Specifically, the inquiry is to:
        i. Separate all data/facts associated with the allegation that deserve further investigation from those which are irrelevant, unjustified or clearly mistaken.
        ii. Fully investigate all allegations and provide a clear set of conclusions as to what acts of misconduct in scholarly research the COI determines have occurred.
    c. If the individual against whom the allegation has been made terminates or has terminated his or her status with the university (student or employee), the inquiry will continue and be held.
    d. The respondent has the option to appear before the COI with or without representation. In addition, the COI may interview any other individuals with relevant information. Transcripts of all interviews shall be prepared and submitted to the interviewed person for comment. Expert opinions, other information, records and data may be requested by the committee. The committee shall collect, review, and protect all documentation and other materials relevant to the allegation, including but not limited to research data, proposals, publications, correspondence and memoranda. Any prior collaborative research agreements with industry that require confidentiality and have been approved by MSOE must be taken into account. All faculty, staff, and students are obliged to cooperate with the COI by supplying requested documents and information. Based upon this data, the COI will prepare the COI Draft of its Findings.
    e. Within 90 days of initiation, the COI must complete its review and prepare a written report that includes: (1) a description of the allegations, (2) respondent and complainant names, (3) evidence reviewed, (4) committee composition, (5) a summary of findings, and (6) determination whether an investigation is warranted.
        i. MSOE must complete the inquiry within 90 days of its initiation unless circumstances warrant a longer period.
        ii. If the inquiry takes longer than 90 days to complete, the

inquiry report must document the reasons for exceeding the 90-day period.

f. The respondent must have an opportunity to respond in writing within 30 days of receipt. The COI then reconvenes to consider the response and makes any appropriate changes to the COI Draft of its Findings to prepare the COI Final Report. The COI Draft of its Findings, the respondent's written responses and the COI Final Report shall be given to the EVPA no later than 30 days after notification of the respondent of the COI Draft of its Findings. Simultaneously, the COI Final Report is conveyed to the respondent. Any extension of this deadline requires documentation of unusual circumstances and must be approved by the EVPA.
    i. The COI Final Report shall contain a precise specification of all charges of misconduct the committee believes to have occurred.
    ii. The COI Final Report shall state the evidence reviewed, summarize relevant interviews and clearly state the conclusions of the inquiry.
    iii. As described in 42 CFR 93.103 a finding of research misconduct requires that:
        1. There be a significant departure from accepted practices of the relevant research community; and
        2. The misconduct be committed intentionally, or knowingly, or recklessly; and
        3. The allegation be proven by a preponderance of evidence.
    iv. The COI is responsible for maintaining and protecting all documentation relating to its report during its inquiry and will provide, along with the report, all such documentation to the EVPA, who shall preserve it for a period of at least seven years.
g. Any determination by the COI of non-substance of part of or the entire allegation shall be reported to the EVPA. The EVPA will write a letter to the individual making the allegation and the individual against whom the allegation was made, to the funding agencies and to the DAR about any recommendation regarding non-substance. Copies of these letters will be kept on file for at least seven years.
h. The EVPA will submit the COI Final Report to the President.

D. Institutional Investigation
    a. Within 30 days after receipt of the COI Final Report that substantiates allegations of misconduct in scholarly research and suggests the need for further action, the President, after consultation with the EVPA, shall:
        i. review the matter,
        ii. offer to discuss the matter with the individual against whom the allegations were made, and
        iii. determine whether to dismiss the case or recommend actions to be taken ranging from disciplinary procedures to dismissal

from employment.

b. If the President concludes misconduct in scholarly research did occur, his/her decisions of specific actions to address the misconduct will be communicated to the accused and to the EVPA within 20 days after his/her receipt of the COI Final Report.
c. The EVPA will notify the DAR and all outside funding agencies associated with the research activities in question of the President's conclusions and his/her decisions of specific actions to address the misconduct and the possibility for appeal.
d. Any determination, in this case by the President, of non-substance of part of or the entire allegation shall be reported to the EVPA. The EVPA will write a letter to the individual making the allegation and the individual against whom the allegation was made, to the funding agencies and to the U.S. Dept of Health and Human Services Office of Research Integrity (ORI) about any recommendation of non-substance. Copies of these letters will be kept on file for at least seven years.

VI. APPEALS

Appeal of President's Decision:

A. Initiating an Appeal
   a. The person accused of misconduct may appeal either the President's conclusion regarding guilt or innocence or the President's proposed sanctions within 20 days of formal notification as in Section IV.D.a above. The request for an appeal shall be addressed in writing to the EVPA.
   b. If the accused does not request a hearing, the matter shall proceed as outlined in Section IV "Final Action."
   c. The appeal should address one or both of the following grounds for appeal: 1) the findings of the Committee of Inquiry clearly contain errors; 2) the sanctions proposed by the President are inappropriate.

B. Formation of the **Appeal Committee (AC)**
   a. The EVPA shall appoint at least three individuals to the AC who were not on the COI, who have no responsibility for the research under investigation, who can be impartial, who have no interests which would conflict with the university's interest in securing a fair and thorough investigation, and who have the competence and expertise appropriate for the hearing of this matter. It is very desirable for one member of the committee to have some legal training or experience, and that person should be the chair of the committee. If the person against whom the misconduct charges have been made is a faculty member, a majority of the hearing committee must be MSOE faculty members. The EVPA may also consider appointment of an individual to the committee from outside the university. An outside appointee, however, should not serve as the AC chair.
   b. The EVPA will consult with the Faculty Council President regarding selection of members for the AC.

C. Appeal Process

a. The AC shall commence meeting not later than 20 days after the request for an appeal. Any increase in the time limit shall be only by mutual written consent of both the EVPA and the accused.

b. If requested by the AC, the accused shall make available for examination by the committee all of the following: 1) laboratory notebooks, 2) records of research activities such as summary reports and drafts of unpublished manuscripts, and 3) other materials associated with the research, including data generated by others. Any prior collaborative research agreements with industry that require confidentiality and have been approved by MSOE must be taken into account. The defendant shall be advised regarding his or her option to appear before this committee. All other faculty, staff and students are obliged to cooperate with the committee by supplying requested documents and information.

c. The AC is charged with reviewing the evidence and findings of the COI. Specifically, the AC shall be responsible for assuring that all evidence tending to show that misconduct occurred and all evidence tending to dispute that misconduct occurred is reviewed. The AC will maintain all information and transmit the information to the EVPA upon the conclusion of its work. In order to review and confirm the findings of the COI and the decision of the President that misconduct in scholarly research occurred, the AC will use the criteria described on page 76262 of the Federal Register:

    i. A finding of research misconduct requires that:

        1. There be a significant departure from accepted practices of the relevant research community; and
        2. The misconduct be committed intentionally, or knowingly, or recklessly; and
        3. The allegation be proven by a preponderance of evidence.

d. The AC shall also provide a recommendation as to whether the sanctions proposed by the President are appropriate.

e. Within 20 days of its being convened, the AC will prepare the **AC Draft of its Findings** and provide it to the accused and to the EVPA. The accused will have 10 days from receipt of the draft report to submit a written response to the AC. Within 50 days of the AC having been convened, the AC will present the **AC Final Report** to the EVPA, the President and the accused. The AC Final Report should include the findings of the committee (AC) and the basis for the findings.

f. The appeal procedure will be completed by the AC within 50 days of being convened. This includes: 1) conducting interviews (The defendant shall be advised of the option to appear before this committee); 2) preparing the AC Draft of its Findings; 3) making that report available for comment by the individual against whom the charges were made; and 4) submitting the AC Final report to the EVPA and the President.

g. At any stage of the proceedings, the AC shall promptly notify the EVPA if any of the following conditions exists: (1) there is an immediate health hazard involved, (2) there is an immediate need to protect federal funds or equipment, (3) there is an immediate need to protect the interests of any person making the allegation or of any individual who is the subject of an allegation as well as his or her co-investigators and associates, (4) it is probable that the alleged incident is going to be reported publicly, or (5) there is a reasonable indication of possible criminal violation. If a criminal violation is possibly involved, the institution must inform the appropriate authorities within 24 hours.

h. If the proceedings are terminated for any reason without completing all the relevant requirements, the EVPA shall make a report of such planned termination, including a description of the reasons for such termination, to the President, who will make the final decision on whether further investigations should be undertaken.

Final Action:

A. Subsequent Action Following the President's Decision in the Absence of an Appeal or Upon Completion of the Appeals Process:

   a. If the accusation of misconduct in scholarly research is substantiated after the opportunity to appeal the President's decision, the EVPA shall notify any agency sponsoring the research and the DAR of the investigation, appeal if any, and final disposition. If the result of the investigation determined that the research is based on scholarly misconduct and is invalid, the researchers shall be requested to withdraw all pending abstracts, papers, and other forms of research publications emanating from the research and editors of journals in which relevant published research appeared shall be notified by the EVPA. Moreover, institutions and sponsoring agencies with which the individual has been affiliated shall be notified by the EVPA if it is believed that the previous research is based on scholarly misconduct and is invalid.

   b. Appropriate disciplinary action (within 30 days of the President's decision in the absence of an appeal, or within 30 days of the AC's decision when an appeal is conducted), where misconduct in scholarly research is substantiated by the above-stated procedures, shall be taken with regard to a faculty member, an academic staff member or a graduate assistant or other student.

   c. If the accusation of misconduct in scholarly research is not substantiated by the COI Final Report, by the President's decision based on the COI Final Report, or by the AC Final Report; the university shall make diligent efforts, as appropriate, to protect or restore the reputation of any person alleged to have engaged in the misconduct. The university shall also take steps to ensure that any person who made an allegation in good faith will not experience retaliation. Additional protection against retaliation is afforded under Wis. Stats., sec. 230.80, et seq.

d. MSOE will maintain the institutional record of each research misconduct proceeding for at least seven years. This record includes all materials compiled or generated during the assessment, inquiry, and investigation that were considered or relied upon (excluding report drafts), decisions made by the EVPA, appeal records, a comprehensive index of all evidence, and a description or sequestered materials not ultimately considered. Records of final deposition and corrective actions will be retained consistent with regulatory requirements.

VII. APPENDICES

None

VIII. ASSOCIATED LEGISLATION/REGULATIONS/ACCREDITATION STANDARDS

Federal Register (65 FR 76260 to 76262) as issued by the Office of Science and Technology Policy.

Higher Learning Commission (HLC) Core Component 2.E

This section to be completed by the Records Manager:

Due date for review

Reviewed annually

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Version History

- **2025, November 18:** Updated for new ORI regulations; time limit updated to six years with exceptions; updated terminology and resolutions to be consistent with federal rules.
- **2024, March 25:** Updated committee members, no changes to content
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- **2010, June 16:** Revision, includes flow chart and tables
- **2010, April 5:** Initial approval

Records Manager
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