

# The University of Tennessee

## POLICY ON MISCONDUCT IN RESEARCH AND SERVICE

Adopted by the UT Board of Trustees at its meeting on 28 October 2005

### Introduction

Institutions of higher education have maintained a centuries-old tradition of integrity and objectivity. The University of Tennessee is pleased with the overall support given by its faculty, staff, volunteers and students in upholding this tradition and wants to ensure that the highest level of integrity in all academic activities is continued. In recent years, a few well-publicized cases of misconduct in research, including fabrication of results, plagiarism, and misrepresentation of findings, have aroused concern among institutions of higher education, individual investigators, sponsors of research, professional societies, and the general public. Although verified instances of such dishonest behavior are relatively rare, they do indicate the need to be diligent in protecting the integrity of academic work and the stewardship of public and private funds. Allegations of dishonesty by members of the university community must be dealt with carefully and thoroughly and with appropriately defined procedures if a university is to merit continued public confidence and trust. It is with the intent of formally defining the institutional support for integrity in research and service and defining the appropriate procedures for addressing allegations of misconduct in research and service that this Statement of Policy on Misconduct in Research and Service has been adopted.

### Applicability

This policy applies to the research and service activity of the faculty, staff, volunteers, and students of The University of Tennessee, except as provided in the following paragraph with respect to Public Health Service (PHS) supported research, research training, or related activities. With respect to students, however, this policy does not apply to activities carried out in credit courses unless the associated research or service activities involve external funding.

Biomedical or behavior research, research training, or activities related to research or research training supported by the Public Health Service (PHS), and applications for PHS support, shall be subject to the PHS Policies on Research Misconduct, 42 Code of Federal Regulations Part 93. Allegations of research misconduct involving PHS supported research, or an application for PHS support, will be handled in compliance with the requirements of the PHS Policies on Research Misconduct, a copy of which is attached as Addendum A to this policy.

### Definitions

For the purpose of this policy, the following definitions will be employed.

- A. **Faculty** means anyone who has a paid or non-paid academic appointment with faculty rank at The University of Tennessee, as defined in Personnel Policy No.

105, Employment Status.

- B. **Staff** means staff exempt, staff non-exempt, other academic and student employees of The University of Tennessee, as defined in Personnel Policy No. 105, Employment Status.
- C. **Student** means any individual enrolled in courses for credit on a full- or part-time basis at The University of Tennessee.
- D. **Volunteer** means any individual with a non-paid volunteer, clinical, non-clinical, affiliated, or honorary employment status.
- E. **Research and Service** means research, scholarship, creative endeavors, public service activities, and related functions conducted by faculty, staff, volunteers and students in their capacity as employees, volunteers, or students of the University.
- F. **Misconduct** means fabrication, falsification, plagiarism, or other serious unethical or illegal deviations from accepted practices in proposing, conducting, or reporting the results of research and service activities. It does not include honest error or honest differences in interpretations or judgments of data.
- G. **Inquiry** means information-gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
- H. **Investigation** means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.
- I. **Campus** means all campuses and independent budgetary units of The University of Tennessee and affiliated institutions in which research, scholarship, creative endeavors, or public service activities for the University are being conducted.

### **Responsibilities of The University**

The University of Tennessee will instruct its faculty, staff, volunteers, and students to promote and encourage integrity in all research and service endeavors; will act vigorously to discourage and detect misconduct in research or service; will take appropriate disciplinary action against any of its faculty, staff, volunteers, or students who engage in such misconduct, as revealed by a careful investigation; and will inform and cooperate with appropriate sponsoring agencies, organizations publishing findings, and other appropriate organizations and institutions that appear likely to have been affected by such misconduct. The University's faculty, staff, volunteers and students are to work collegially to create an environment where misconduct will not be tolerated.

### **Confidentiality**

The University will make every reasonable effort to limit voluntary disclosure of information about an allegation of misconduct to those within and outside of the

University with a need to know. The University is subject, however, to the Tennessee Public Records Act, and the records of any inquiry or investigation do not fall within any statutory or judicially recognized exception to the Act.

## **Allegations**

Any individual who has reason to believe that he or she has knowledge of an act of misconduct within the meaning of this policy by any University of Tennessee faculty, staff, volunteer or student is responsible for communicating this information to a supervisor or appropriate administrator. The supervisor or administrator will refer the allegation to the administration of the campus where the misconduct in research and service is alleged to have occurred. The University will make every reasonable effort to protect the confidentiality of an individual who in good faith makes an allegation of misconduct and also protect the individual from retaliation by any University official. However, if the allegation is later shown to have been made maliciously and falsely, the University may take appropriate disciplinary action against the individual who made the allegation.

## **Inquiries and Investigations**

### **1. Inquiry**

When an allegation or evidence of misconduct is referred to the campus administration, the chief administrator of the campus will immediately initiate an inquiry. At the same time, the chief administrator of the campus shall give written notice to the individual against whom an allegation has been made of the nature of the allegation but not the identity of the person who made the allegation. The purpose of the inquiry is to determine if sufficient grounds exist for conducting an investigation. The chief administrator will determine on a case-by-case basis how the inquiry will be conducted. The chief administrator shall ensure that necessary and appropriate expertise is obtained to carry out a thorough and authoritative evaluation of the relevant evidence. The University will take careful precautions against real and apparent conflicts of interest on the part of those involved in the inquiry. An essential component of the inquiry will be for the individual against whom the allegation is made to present evidence orally or in writing as appropriate.

An inquiry must be completed within sixty (60) calendar days of its initiation unless circumstances clearly warrant a longer period. The record of the inquiry should include documentation of the reasons for exceeding the sixty (60) day period.

The University will maintain in a secure manner and for a minimum of three (3) years sufficiently detailed report of inquiries to permit later assessment of reasons for determining that an investigation was or was not warranted. A report of the inquiry shall be made to the chief administrator of the campus and to the President of the University. The written report shall include a statement of the evidence reviewed, a summary of relevant interviews, and the conclusions

of the inquiry. The individual against whom the allegation was made shall be given a copy of the report of the inquiry. If the individual comments on the report, the comments will be made a part of the record. Sponsoring agency officials will be informed within twenty-four (24) hours if, after consultation with University legal counsel, an inquiry indicates possible criminal violation.

## **2. Investigation**

If, as a result of the inquiry, sufficient grounds exist for further investigation, the chief administrator of the campus will initiate a full investigation within thirty (30) days and will notify the sponsor(s) and the individual(s) against whom the allegation has been made in writing on or before the date the investigation begins. At this point, the chief administrator shall disclose to the individual who will be the subject of investigation the identity of the person who made the allegation. The purpose of the investigation is to examine and evaluate relevant facts to determine whether misconduct has taken place.

This investigation will be conducted by a panel of at least five (5) full-time University faculty and administrative staff. The panel will include a minimum of three (3) University of Tennessee faculty members having expertise in the area of research or service under investigation and who do not hold administrative appointments. Additional individuals may be appointed to provide expertise according to the nature of the specific allegations or evidence in the case. If necessary, additional faculty members with required expertise may be drawn from academic institutions other than The University of Tennessee. All members of the panel must be free of any potential conflict of interest regarding any activity of the investigation. In the event that there are not three members from The University of Tennessee faculty that would meet the qualifications, the panel may be filled by faculty from other academic institutions. The University will take careful precautions against real or apparent conflicts of interest on the part of those involved in the investigation.

The panel of investigation will examine the final report of the inquiry, along with a full statement of allegations which shall be prepared by the chief administrative officer of the campus or his/her designee based upon agency notification and information, individual informants, and other sources. The individual who is the subject of investigation shall be given a copy of the full statement of allegations and an opportunity to comment on the allegations at the outset of the investigation.

The investigation may also include: a review of files, reports, and other documents at the University or in the public domain; a review of procedures or methods and inspection of laboratories, laboratory materials, specimens, and records of the subject(s) of the investigation; interviews with witnesses; a review of any documents or other evidence provided by or properly obtainable from parties, witnesses, or other sources; and a review of records maintained by and properly obtainable from relevant funding agencies. Whenever possible, interviews should be conducted of all individuals involved either in making the

allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations; complete summaries of these interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file. The individual against whom the allegation has been made will be provided promptly with copies of all materials placed in the investigatory file, as they are generated, in order to permit timely response. The individual concerned will be allowed an opportunity to respond, in writing and in person, prior to the time that the panel makes a determination as to whether the allegation has been substantiated. Should the individual choose to respond in person, he or she may be accompanied by legal counsel or other person of his or her choice. The role of legal counsel and any other person shall be limited, however, to advising the individual and shall not include the right to make oral argument or otherwise speak for the individual.

The investigation must be completed within one hundred twenty (120) days of its initiation. This includes conducting the investigation, preparing the report of findings, and obtaining comments from the subjects(s) of the investigation. If the University determines that it will not be able to complete the investigation within one hundred twenty (120) days, it must closely adhere to any applicable sponsoring agency regulations regarding the submission of interim reports, requests for extensions, and any other regulations. Documentation will be maintained throughout the investigation to substantiate the findings. This documentation is to be made available to appropriate sponsoring agencies after completion of the investigation.

Upon completing the investigation, the investigative panel shall prepare a final report containing a written statement of its findings and provide a copy of those finding to the individual accused of misconduct. The individual shall have an opportunity to comment on the findings before the investigative panel submits its final report. Comments from the affected individuals will be attached to the final report.

The investigative panel shall submit its final report to the chief administrator of the campus and the President of the University containing an assessment of whether the allegation has been substantiated, describing the procedures under which the investigation was conducted, and including the actual text or an accurate a summary of the comments of any individual(s) found to have engaged in misconduct.

The University will strictly adhere to all requirements of sponsoring agencies, if any, including filing of interim progress reports and keeping all agencies apprised of any developments which may affect current or potential funding. Interim administrative actions will be taken, as appropriate, to protect involved sponsoring agency funds and ensure that the purposes of the funding are carried out. The University must notify each sponsoring agency as soon as it ascertains that any of the following conditions exist: (1) there is an immediate health hazard; (2) there is an immediate need to protect agency funds or

equipment; (3) there is an immediate need to protect human or animal subjects of the research or service work; (4) there is an immediate need to protect the interests of the person(s) making the allegations or of the subject(s) of the allegations; (5) it is probable that the alleged incident is going to be reported publicly. Sponsoring agency officials will be informed within 24 hours if, after consultation with University legal counsel, an inquiry or investigation indicates possible criminal violations. Sponsoring agencies will be notified of the final outcome of any investigation including any sanctions taken against an individual.

### **Unsubstantiated Allegations: Restoration of Reputations**

If an allegation of misconduct is not substantiated by an investigation, the chief administrator of the campus will undertake diligent efforts to give notice of that fact to all persons who participated in the inquiry and investigation and other persons or agencies who were informed of the allegation by the University.

### **Sanctions**

If an allegation of misconduct is substantiated, the chief administrative officer of the campus shall initiate the applicable faculty, staff, or student disciplinary procedure, and sanctions, if appropriate, will be imposed under those procedures. If the individual is a faculty member, action will be taken as specified in the applicable *Faculty Handbook*; if the individual is a staff member, action will be taken as specified in *The University of Tennessee Personnel Policies and Procedures*; if the individual is a student, action may be taken as specified in the applicable Student Handbook; if the individual is a student and an employee, action may be taken as specified in the applicable Student Handbook and in *The University of Tennessee Personnel Policies and Procedures*; if the individual is a volunteer, sanctions will rest with the chief administrative officer of the campus.

### **Dissemination of Policy and Procedure**

The chief administrative officer is responsible for ensuring that faculty, staff, volunteers, and students at his/her campus are informed of his policy and of its significance. Questions regarding a specific allegation, inquiry or investigation should be directed to the Office of the General Counsel.