




## Special Rules for conducting business of the Faculty Senate while NKU is in “virtual continuity of operations” mode

(Requires 2/3 vote)

Meetings of the Faculty Senate will be conducted virtually, using the Zoom online meeting software (available for download and user configuration at <https://nku.zoom.us/> using NKU login).


Owing to the large number of participants attending senate meetings, the following rules will be observed to foster orderly meetings and maintain integrity of vote results.

1. Zoom profile setup
  - a. Voting members will set their Zoom profile and/or connect with a link-name using their first and last names with an asterisk (\*) after their last names. Instructions for setting this up can be found on the next page.
  - b. Non-voting members will ensure that an asterisk does not appear after their names.
2. Meeting participants will keep phones/microphones muted when they do not have the floor in order to minimize background noise during the meeting.
  - a. The senate president, as meeting host, and designated co-hosts of the meeting will have the ability to mute participants when they do not have the floor.
  - b. A participant who wishes to address the assembly, raise a point of order, *etc.* should use the raise-hand icon (  ), which can be found at the bottom of the participants panel, and wait until he/she is recognized to unmute and speak. Instructions for finding the participants panel are on the next page.
3. Voting
  - a. Votes ordinarily cast by voice (aye versus no) in regular senate meetings will be cast using the yes (  ) and no (  ) icons, which can be found at the bottom of the participants panel. Instructions for finding the participants panel are on the next page.
  - b. In the event that there is a vote by ballot, the anonymous polling feature of zoom will be used. The host and designated co-hosts will put non-voting members and guests on hold during the poll to ensure that only voting members are allowed to cast votes.
4. Use of **chat** in Zoom.
  - a. Ideally, chat will mainly be used to alert the meeting host and designated co-hosts of technical problems, so that the co-hosts can try to help participants resolve those issues.
  - b. If technical issues cannot be resolved, participants may make motions, contribute to discussion, vote, *etc.* via chat, and co-hosts will relay chat content to the assembly.
  - c. Chat also may be used to communicate in writing proposed wording changes in motions to amend or change.
  - d. Instructions for activating the chat panel are provided on the next page.


Note that meeting attendees will be allowed to use phones for audio; however, votes must be cast as described above in the Zoom software/app.

## Instructions for using Zoom

Setting user's name (as it will appear in the participants panel)

- When joining the meeting (possibly the easiest) – enter your name (with or without asterisk, as appropriate) in the Your Name box in the Join Meeting dialog box.
- Before the meeting (recommended)
  1. Sign in at <https://nku.zoom.us/> and select profile
  2. Click the Edit link to the right of your name
  3. Edit name (including or excluding asterisk, as appropriate)
  4. Press the save changes button
- During the meeting (Windows)
  1. Click the arrow next to the right of the video button (  ) in meeting controls
  2. Select Video Settings...
  3. Select Profile on the left of the window that pops up
  4. Push the Edit my Profile button, which brings up profile settings in a web browser
  5. It may be necessary to close the advanced setting window and reactivate the web browser window before editing your profile
  6. Click the Edit link to the right of your name
  7. Edit name(s) as needed
  8. Press the save changes button
  9. Return to the zoom meeting window
  10. End the meeting
  11. Rejoin the meeting

Activating the participants panel

- Push the participants button (  ) in the meeting controls

Activating the chat panel

- Push the chat button (  ) in the meeting controls

Faculty Senate Voting Item  
March 30, 2020  
3:00 pm virtual meeting via Zoom\*

University Curriculum Committee

Richard Fox

VOTING ITEM: Approval of new degree program: Doctorate in Occupational Therapy (OTD) – see <https://nku.curriculog.com/proposal:3719/form> ).

## Matthew Zacate

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**From:** Sue Ott Rowlands  
**Sent:** Thursday, February 13, 2020 12:01 PM  
**To:** Matthew Zacate  
**Cc:** Ashish Vaidya; Sue Ott Rowlands  
**Subject:** Scientific/Research Misconduct Policy  
**Attachments:** Research Misconduct Policy Provost Approved.pdf

Dear Matthew,

President Vaidya designated me to represent him regarding changes that were being proposed to the Scientific/Research Misconduct Policy in section 16.7 of the Faculty Handbook. On January 10, 2020, I provided you the following reason why the changes that the Faculty Senate proposed were disagreeable:

“In response to your memo of December 12, 2019, I cannot approve the proposed policy appended to the memo that has updated the Scientific/Research Misconduct Policy in section 16.7 of the Faculty Handbook. After reviewing the General Counsel’s memo of October 11, 2019, the version appended to your December 12 memo is not consistent with federal law nor is it in the best interest of the university.”

I also attached a version of the policy that would be acceptable as that version addressed the concerns outlined in General Counsel’s memorandum of October 11, 2019. It is my understanding that Faculty Senate, the Professional Concerns Committee and you were provided a copy of General Counsel’s memorandum that details why the version Faculty Senate proposed was not consistent with federal law nor in the best interest of the university. As the President’s designee regarding the Faculty Senate’s proposed changes to section 16.7 of the Faculty Handbook, my decision relied on General Counsel’s advice and guidance and my own research into the matter.

I respectfully request that the Faculty Senate consider approving the attached version of the policy (the Executive Committee’s version).

Best regards,

Sue

Sue Ott Rowlands  
Provost and Executive Vice President for Academic Affairs  
Northern Kentucky University  
859.572.5788  
[sottrowlands@nku.edu](mailto:sottrowlands@nku.edu)

Note: this is the 12-AUG-2019 version recommended by the Executive Committee at the 26-AUG-2019 meeting. The copy is from the original distribution, which had the wrong date. It should be 12-AUG-2019.

EC's version (14-DEC-2018) of proposed Research Misconduct Policy  
to replace Section 16.7 of the Faculty Handbook

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## **16.7. SCIENTIFIC/RESEARCH MISCONDUCT**

### **16.7.1. PREAMBLE AND POLICY STATEMENT**

The preeminent principle in all research is the quest for truth. The credibility of such research must be above reproach if the public trust is to be maintained. Any compromise of the ethical standards required for conducting academic research cannot be condoned. While breaches in such standards are rare, these must be dealt with promptly and fairly by all parties in order to preserve the integrity of the research community.

A critical element of any policy on research misconduct is that it be a fair and effective process for distinguishing instances of genuine and serious misconduct from insignificant deviations from acceptable practices, technical violations of rules, or simple carelessness. The policy defined in this Handbook will allow such distinctions to be made in a manner that minimizes disruption and protects the honest researcher from false or mistaken accusations.

Research misconduct, as defined in Section 16.7.2., below, is not condoned at Northern Kentucky University and allegations of such misconduct will be investigated in accordance with the procedures described below. The policy and procedure discussed herein do not restrict or limit any legal options available to any of the parties through appropriate courts and/or administrative agencies. NKU must comply with federal regulations, and additional policies may apply to faculty engaged in federally sponsored research or submitting work to a federal agency.

### **16.7.2. DEFINITIONS**

#### **16.7.2.1. COMPLAINANT**

Complainant means a person who in good faith makes an allegation of research misconduct.

#### **16.7.2.2. GOOD FAITH**

Good faith as applied to a complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have 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 part. 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.

#### **16.7.2.3. INQUIRY**

Inquiry means preliminary information-gathering and preliminary fact-finding.

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#### **16.7.2.4. INVESTIGATION**

Investigation means the formal collection, examination, and evaluation of all relevant facts to determine whether research misconduct has occurred.

#### **16.7.2.5. RESEARCH MISCONDUCT**

Research misconduct is defined as fabrication, falsification, plagiarism, or other serious deviations from those accepted practices in proposing, performing, or reviewing research, or in reporting results from research.

- Fabrication is making up data or 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.

Research misconduct does not include honest error or difference of opinion.

In cases of allegations involving activities submitted to or supported by a federal agency and definitions or procedures for research misconduct specified in the agency's regulations differ from those in this policy, the definitions and procedures in the agency's regulations will be used.

#### **16.7.2.6. RESEARCH RECORD**

Research record means the record of data or results that embody the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to federal agencies or institutional officials by a respondent in the course of the research misconduct proceeding.

#### **16.7.2.7. RESPONDENT**

Respondent means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

#### **16.7.2.8. RETALIATION**

Retaliation for the purpose of this part means an adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to (a) a good faith allegation of research misconduct or (b) good faith cooperation with a research misconduct proceeding.

### **16.7.3. POLICIES**

#### **16.7.3.1. CONFIDENTIALITY**

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All parties involved in the inquiry and investigation shall strive to maintain confidentiality of information, respondents, complainants, and research subjects that may be identified from research records or evidence.

**16.7.3.2. INTERIM ADMINISTRATIVE ACTION**

As provided by federal regulations, at any stage in the process of inquiry, investigation, formal finding and disposition, NKU may take interim administrative action to protect the welfare of human or animal subjects of research, to prevent the inappropriate use of funds, or to protect the interest of students, colleagues, or the University. A suspension or restriction of activities does not in any way imply that research misconduct has taken place. This action will be temporary and used as an interim measure prior to the conclusion of the formal investigation.

**16.7.3.3. EXTRAMURAL ASSURANCE AND REPORTING REQUIREMENTS**

If applicable, NKU will fully and continually cooperate with the appropriate federal agency during its oversight review or any subsequent administrative hearings or appeals. This may include providing research records and evidence under the institution's control, custody, or possession and access to all persons within its authority necessary to develop a complete record of relevant evidence. If required by a funding agency, the Institutional Official (IO) or designee shall submit written assurance that the institution is in compliance with the agency's requirements for handling allegations of misconduct. If the research is supported by an extramural funding agency, the IO or designee is responsible for ensuring compliance with the applicable funding agency's reporting requirements.

**16.7.3.4. STATUTE OF LIMITATION**

NKU will only investigate research misconduct that has occurred within six years of the date that the institution receives an allegation of research misconduct. This six-year limitation does not apply to the following circumstances:

- 1) Subsequent use by the respondent by continuation or renewal of any incident of alleged research misconduct that occurred before the six (6) year limitation through the citation, republication or other use for the potential benefit of the respondent of the research record that is alleged to have been fabricated, falsified or plagiarized.
- 2) If the appropriate funding agency or the University in consultation with the funding agency, determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.

**16.7.3.5. CONFLICT OF INTEREST**

Individuals responsible for carrying out any part of the research misconduct proceeding must not have any real or apparent unresolved, personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses. Any conflict of interest must be disclosed.

A conflict of interest may include, but is not limited to, co-authorship on a paper or book, a professional or personal relationship, professional or personal relationship or antagonism,

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financial ties, or contact regarding possible employment with either the respondent or the complainant.

**16.7.3.6 ABSENCE OF THE RESPONDENT OF THE ALLEGATION**

Should the respondent leave NKU before the case is resolved, the dean, on behalf of NKU, when possible, shall continue the examination of the allegation and reach a conclusion. NKU shall cooperate with the process of another institution to resolve such questions to the extent possible under state and federal law.

**16.7.3.7. RESTORING REPUTATION**

The dean, or designee, or Provost shall undertake all practical and reasonable efforts to protect and restore the reputation of the individual(s) alleged to have engaged in research misconduct but against whom no finding of research misconduct has been made, if requested by the individual(s) as appropriate. The dean, or designee, or Provost shall undertake reasonable and practical efforts to protect or restore the position and reputation of the individual(s) who in good faith, made an allegation of research misconduct, if requested by the individual(s) and as appropriate. The dean, or designee, or Provost shall undertake reasonable and practical efforts to protect or restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against these individuals.

**16.7.3.8. FALSE ACCUSATIONS**

Regardless of the outcome of an inquiry or investigation, it is the policy of the University that no individual who, in good faith, has reported apparent research misconduct shall be subject to retaliation by the University or by any member of the University community. However, if it is determined that the charges were brought against the respondent with malicious or dishonest intent such that the complainant had a clear understanding that they were probably untrue and that they were designed to harm the respondent, the dean may recommend to the provost that appropriate administrative action be taken against the complainant consistent with the University's governing and administrative regulations.

**16.7.4. PROCEDURES**

**16.7.4.1. ALLEGATIONS OF RESEARCH MISCONDUCT**

It is the policy of Northern Kentucky University to treat fairly both the complainant and the respondent. All allegations of research misconduct will be treated seriously and, to the extent possible, the confidentiality of those who submit allegations will be maintained.

Though allegations of research misconduct may be by any means of communication to an institutional or federal official, the allegation of misconduct shall initially be documented in writing by either the complainant or the person receiving the allegation. If the allegation is made through the Ethics and Compliance Helpline, the person receiving the allegation should document the allegation in writing. Any other person receiving an allegation of research misconduct should relay the information to the appropriate dean for preliminary inquiry. The Provost may receive reports of research misconduct in situations where the appropriate dean may have a conflict of interest.



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Either before or when the institution notifies the respondent of the allegation, inquiry or investigation, the institution must promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. Respondents may be given supervised access to the research records throughout the inquiry and/or investigation.

**16.7.4.2. PRELIMINARY INQUIRY**

The purpose of the preliminary inquiry is to conduct an initial review of evidence to determine if there are sufficient grounds to warrant a formal investigation of the charge of research misconduct. The preliminary inquiry will be conducted by the dean of the college in which the respondent faculty member is appointed. If the allegation of misconduct is brought against a dean, the provost will appoint another dean to conduct the preliminary inquiry. The dean will notify university legal counsel and the provost regarding the nature of the allegations. University counsel shall determine whether the research at issue is governed by any federal legal regulations, and shall instruct the dean to ensure that the preliminary inquiry is conducted in compliance with any applicable regulations. When deemed necessary, the dean may select one or two other individuals to assist in the preliminary inquiry. Any such individuals should have no real or apparent conflict of interest related to the case in question. A conflict of interest may include, but is not limited to, co-authorship on a paper or book, professional or personal relationship or antagonism, financial ties, or contact regarding possible employment with either the respondent or the complainant.

The preliminary inquiry should begin with an informal discussion with the complainant to verify that the allegation should be classified as possible research misconduct. Within ten (10) business days after this discussion with the complainant, the dean shall begin an informal discussion with the respondent regarding the allegations. If federal or state regulations so require, the dean shall also present the respondent with a letter that states: the nature of the allegations; the focus of the inquiry; an invitation to the respondent to provide comments and other relevant information to the dean; other relevant information; and a statement that the respondent has the right to be represented by an attorney.

The preliminary inquiry should be completed within sixty (60) days of receipt of the written allegation of misconduct. If the preliminary inquiry determines that there are not sufficient grounds within the context of the definition of misconduct for a formal investigation, the respondent and the complainant will be sent letters informing them of the results. All records will be sent to the office of the provost.

A formal investigation will be found to be warranted if:

- a. A reasonable basis for concluding that the allegation falls within the definition of research misconduct; and
- b. Preliminary information-gathering and preliminary fact-finding from the inquiry indicates the allegation may have substance

If the preliminary inquiry determines that there are sufficient grounds for a formal investigation within the context of the definition of misconduct, the respondent and the complainant will be

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sent letters informing them of this decision. The letter to the respondent may include (or be deemed) the "draft preliminary inquiry report." The letter to the respondent (i.e., "the draft preliminary inquiry report") must include, but is not limited to, the following:

- The name and position of the respondent(s);
- That a formal investigation is to be conducted;
- Information pertaining to federal agencies involved including funding numbers, grant applications, contracts, etc., if applicable;
- The nature of the allegation, including a summary of all evidence that currently exists and the right to review it;
- The basis for recommending that the alleged actions warrant an investigation;
- That the respondent will have an opportunity to respond to the charges; and
- That the respondent has the right to be represented by an attorney.

The respondent shall have the opportunity to respond to this letter, in writing, within thirty (30) calendar days of the date on which the respondent receives it. The draft preliminary inquiry report, combined with any comments received from the respondent, shall constitute the preliminary inquiry report.

In the event a formal investigation is deemed to be warranted, the dean shall inform the following individuals and/or organizations: university legal counsel, chairs of any departments that may be involved, the provost, and appropriate regulatory bodies. As required by law or regulation, University counsel shall notify appropriate government agencies when a formal investigation is convened.

If a formal investigation is judged to be unwarranted and it is determined that the charges were brought against the respondent with malicious or dishonest intent such that the complainant had a clear understanding that they were probably untrue and that they were designed to harm the respondent, the dean may recommend to the provost that appropriate administrative action be taken against the complainant. Such appropriate administrative action shall be consistent with the University's governing and administrative regulations.

Any records produced during the preliminary inquiry stage, including the preliminary inquiry report, must be maintained by University Counsel for at least seven (7) years and, upon request, be provided to the applicable government agencies.

#### **16.7.4.3. FORMAL INVESTIGATION**

Before any formal investigation commences, the respondent(s) and any involved collaborators must be notified by written statement of allegations that an investigation is to be conducted. The written statement shall:

- Include a copy of the preliminary inquiry report, which includes information on the nature of the allegations and the focus of the investigation, and inform those being investigated of the opportunity to provide comments and other relevant information to the dean
- Inform the respondent(s), prior to beginning the investigation, of his or her right to be represented by an attorney in preparing and/or giving his or her response in this and all subsequent phases of the investigation.

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- Give the respondent a copy of or refer to the institution's policies and procedures related to research misconduct.
- Indicate there can be no actions that are, or could be perceived as, retaliatory against the investigation committee members, witnesses, or the person who raised an allegation or is thought to have raised an allegation.

The dean shall appoint an Investigative Body (IB) with three or more members to initiate an investigation thirty (30) calendar days after receipt of the preliminary inquiry report. IB members must be tenured faculty members with sufficient expertise in the area of investigation to insure a sound base from which to evaluate the nature of the charges. One member of the IB may be from outside the University if necessary to insure an accurate and knowledgeable evaluation of the evidence. All IB members must be free of real or apparent conflicts of interest regarding the investigation. The dean shall document the rationale for selecting IB members based on their expertise and impartiality. All IB members shall be required to sign a statement that they will maintain the confidentiality of the investigation, and that they have no interest that would conflict with those of the respondent, the complainant, the University, or the sponsoring agency for the research. Prior to the beginning of the formal investigation, the respondent shall be given the opportunity to object in writing to the appointment of any member of the IB, based on conflict of interest. If the member is appointed to the IB despite the respondent's objection, this fact shall be noted in the IB's final report.

The IB shall conduct a formal examination and evaluation of all relevant facts to determine if the allegations of misconduct are valid. In order to maintain the integrity of the review process and avoid any appearance of institutional influence over the panel's deliberations or decision-making, the IB shall be insulated from any administrative influence and any *ex parte* communications with the parties. The IB shall seek the advice of university counsel and may engage in, but is not limited to, the following investigative procedures:

- Interviewing witnesses;
- Sequestering and examining research data (both published and unpublished) and other evidence;
- Seeking expert counsel both inside and outside the University; and
- Conducting a hearing in which the respondent may respond to the charges, call witnesses, and question the complainant.

The IB shall pursue diligently all significant issues and leads discovered that are determined relevant to the investigation. A written summary or transcript of each interview conducted must be completed. A copy of the interview summary or transcript shall be provided to the interviewed party for comment.

The investigation must be completed within 120 days of beginning it, including conducting the investigation, preparing the report findings, providing the draft report for comment, and, if applicable, sending the final report to the appropriate federal agency. If a federal agency is to be involved, the IB must notify the Provost, who will facilitate arrangements for the report to be sent. If the IB is unable to complete the investigation in time, a written request for extension that includes an explanation for the delay shall be submitted to and approved by the Provost and be included in the investigation record. Except: if no federal or state regulation requires the investigation to be completed within 120 days, then the timeline for a particular

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investigation shall automatically be extended until the IB completes the investigation, without any need for written request of extension.

A finding of research misconduct requires that acts constitute research misconduct as defined above and that:

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

The IB shall prepare a draft Investigation Report. The draft report will be sent to all respondents, and all respondents shall be afforded the opportunity to comment upon the draft report and have the comments included in the formal record of the investigation. Any comments shall be submitted in writing within thirty (30) calendar days of the date on which the respondents received the draft report. The IB shall review all respondents' comments prior to issuing the final Investigation Report.

At the completion of the investigation, the IB shall submit its findings, comments from the respondents, and recommend institutional actions (also known as the Investigation Report) in writing to the dean who shall provide a copy to the respondents of the investigation, the Provost, Legal Counsel, and chair(s) of the affected department(s). The dean shall ensure that publishers and editors of journals are informed if manuscripts emanating from fraudulent research have been submitted or published.

The Investigation Report will include the following:

- 1) Description of the nature of the allegations of research misconduct
- 2) Description and documentation of federal financial support, if applicable (e.g., grant numbers, grant applications, contracts, etc.)
- 3) Institutional charge (e.g., description of specific allegations of research misconduct for consideration in the investigation)
- 4) Copy of the institutional policies and procedures under which the investigation was conducted
- 5) Research records and evidence. Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed.
- 6) Statement of findings. For each separate allegation of research misconduct identified during the investigation, provide
  - a. A finding as to whether research misconduct did or did not occur as follows:
    - i. Identify whether research misconduct was falsification, fabrication, plagiarism, or other serious deviation from accepted practices and if it was intentional, knowing, or in reckless disregard;
    - ii. A finding that serious research irregularities have occurred, but that the irregularities are insufficient to constitute misconduct; or
    - iii. A finding that no research misconduct or research irregularities were committed.
  - b. A summary of the facts and the analysis that support the conclusion and consideration of the merits of any reasonable explanation by the respondent;
  - c. Information about the specific federal support affected, if applicable
  - d. Identification of any publications in need of correction or retraction;

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- e. Identification of the person(s) responsible for the misconduct; and
  - f. Listing of any current support or known grant proposal applications that the respondent has pending with federal agencies.
- 7) Comments. Include and consider any comments made by the respondent and complainant on the draft investigation report.

The investigation must be thorough and sufficiently documented including examination of all research records and evidence relevant to reaching a decision on the merits of the allegations. The IB must ensure that it maintains and provides all records from the investigation to the Provost. This is necessary so that they can be provided to any applicable federal agencies, which may request all relevant research records and records of the institution's research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.

#### **16.7.4.4. DOCUMENTATION**

At the conclusion of an allegation assessment, inquiry, or investigation, the dean shall forward all documentation pertaining to the allegation assessment, inquiry, or investigation to the Provost who shall arrange that the documentation be maintained for seven (7) years and ensure that documentation is provided to the appropriate federal agency upon request, if appropriate. Documentation to be maintained for federal agencies must include the following, as applicable:

- 1) Allegation assessment statement
- 2) Preliminary Inquiry final report
- 3) Formal Investigation Report, including a copy of the report, all attachments, and any appeals
- 4) Findings: statement whether or not the institution accepts the investigation's findings
- 5) Final institutional action: statement if the institution found research misconduct, and if so, who committed the misconduct
- 6) Institutional administrative actions: description of any pending or completed administrative actions against the respondents

The institution must notify the relevant federal agency (if applicable), if the institution plans to close out a case at the inquiry, investigation, or appeal stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except the closing of a case at the inquiry stage on the basis that an investigation is not warranted.

#### **16.7.4.5. DISCIPLINARY ACTION**

If the findings of the investigation substantiate allegations of research misconduct, the Provost, in consultation with Legal Counsel, shall determine appropriate administrative action, consistent with the University's governing and administrative regulations.

#### **16.7.4.6. APPEAL**

The respondent may appeal the decision of the investigative committee in writing to the provost. The respondent shall have thirty (30) days to file an appeal. A reinvestigation of the case will be warranted if one or more of the following conditions are judged by the

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provost to exist:

- Significant omission of new evidence that was not known or reasonably available at the time of the formal investigation;
- A member of the committee had a conflict of interest; or
- A member of the committee did not accurately interpret the evidence due to lack of expertise concerning the research topic.

The provost must rule within fifteen (15) days of receipt of the respondent's written appeal on whether or not an appeal is warranted. If the provost determines that an appeal is warranted, a new investigative committee will be appointed by the Provost to reexamine the case. The provost's ruling on the issue of appeal is final. The criteria for appointing members to the original investigative committee shall also apply to the qualifications of members of the new investigative committee. The procedures that applied to the original investigative committee will also apply to the new investigative committee. The new committee shall have one hundred twenty (120) days to complete the investigation. The decision of this review committee is final.

## FAQ on the Research Misconduct Policy Proposal

### Can You Briefly Summarize the PCC recommendation on research misconduct policy?

**Yes.** After study and deliberation that involved substantial back-and-forth with the NKU administration, in April 2019 the PCC voted to recommend a package of technical amendments to NKU Faculty Handbook Sec. 16.7 (NKU’s current Research Misconduct Policy). The PCC-recommended amendments would bring the Handbook more clearly into conformity with applicable federal regulations, without changing the current scope of the policy’s coverage.

### If the PCC’s recommendation doesn’t materially change the current Faculty Handbook policy, then why has there been any controversy?

A controversy arose when the NKU administration asked the Senate to recommend two changes to existing policy. In the PCC’s view, the changes sought by the administration would imprudently relax NKU’s current standards of academic integrity, and would make it harder for the faculty to police certain forms and instances of academic misconduct that have, unfortunately, occurred at NKU. Because integrity is a core value at NKU, PCC could not recommend that our current standard of research integrity be relaxed.

### Why shouldn’t the Senate defer to the administration on such matters?

The NKU Faculty Senate exists to represent the faculty, not to represent the administration.<sup>1</sup> The Senate’s role in shared governance requires it to “[e]valuate university policies, programs, and practices and recommend such improvements as seem warranted” to the faculty.<sup>2</sup> The Faculty Senate Constitution explicitly contemplates that the Senate will make recommendations with which the administration may disagree.<sup>3</sup> It provides procedures for

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<sup>1</sup> “The Faculty Senate is the official representative body of the General Faculty of Northern Kentucky University.” NKU Faculty Senate Constitution Art. I.A. “The purposes of the Faculty Senate are to: (1) Provide a forum for the faculty to propose policy and to discuss all matters relating to the wellbeing of the University; and (2) Allow the faculty to participate effectively in the enactment of university policies.” NKU Faculty Senate Constitution Art. I.B.

<sup>2</sup> NKU Faculty Senate Constitution Art. I.B.4. See also Statement of Collegial Governance at NKU Part B.1 (“Faculty bodies have primary responsibility for recommendations in [academic] matters . . . [including] policies which result in dismissal of tenured faculty, . . . and their recommendations should be implemented except for compelling reasons.”).

<sup>3</sup> See NKU Faculty Senate Constitution Art. I.C. (“As the representative of the General Faculty, the Senate shall be a counselor to the University president in matters of faculty concern. When the University president disagrees with a recommendation of the Senate, he/she may request the Senate to reconsider its decision at its next regular meeting or at a special meeting called for that purpose. The University president or his/her designee shall provide the Senate with the reasons for his/her disagreement. The Senate shall reconsider its decision, giving due weight to the University president’s reasons. If the Senate and University president cannot agree, the University President, at the request of the Senate, shall report the Senate’s views to the Board of Regents.”). See also Statement of Collegial Governance at NKU Part B.1 (“Faculty bodies have primary responsibility for recommendations in [academic] matters, and their recommendations should be implemented except for

resolving such disagreements collegially, and in public.<sup>4</sup> These procedures represent the essence of shared collegial governance. The capacity to give unwelcome advice to the administration is an essential attribute of the Faculty Senate that should not be diluted through self-censorship.

### **What are the actual points of disagreement between the administration and the PCC?**

There are only two points of disagreement between the administration and the PCC. One disagreement concerns the scope of the definition of “research misconduct.” The other disagreement concerns a “statute of limitations.”

### **What’s the disagreement over the definition of “research misconduct”?**

Section 16.7.2 of the NKU Faculty Handbook currently defines “research misconduct” to include “Fabrication, falsification, plagiarism, or other serious deviations from those accepted practices in proposing, carrying out, or reporting results from research.”

The Handbook language prohibiting “other serious deviations from those accepted practices” may sound vague. But at NKU, that language has been given authoritative interpretation in written reports issued by various investigating committees, all working under the supervision of the NKU Office of General Counsel. In an exemplary *NKU Investigative Report* prepared in 2002, the phrase “other serious deviations from those accepted practices” was defined to include “the recycling of material in redundant or duplicate publications, compounded by a failure to cite the prior work.”<sup>5</sup>

Under this definition, the term “Redundant or duplicate publications” was further defined to mean “publications in which a substantial portion of the work has already been published. It also includes the situation in which the work is either so similar to previously published material or so modest an extension of previously published work that it would not be viewed as significant were the previous publication acknowledged.”<sup>6</sup>

Also under this definition, the term “Failure to cite prior work” was further defined to refer to “papers that are presented as if the material were new when in fact the authors have

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compelling reasons. Reasons for non-implementation of faculty recommendations should be clearly stated in writing. . . .”).

<sup>4</sup> See id.

<sup>5</sup> **Investigative Report Setting forth the General Findings Of the Investigation Into Papers by Shailendra Verma, Balasubramani Ramjee, Anju Ramjee, Louis Noyd, and Richard Snyder 1995-2001**, prepared by the NKU Ad Hoc Investigative Committee on Research Misconduct (Thomas Kearns, Robert Kempton, and Matthew Shank), at 5 (Dec. 23, 2002), online at <<https://www.sendspace.com/pro/ykfsfx>>;

<sup>6</sup> Ibid.



previously published much of the body of the work before. An extension or recycling of previous work must be viewed as such, not as a new and original contribution.”<sup>7</sup>

In the PCC recommendation, these existing NKU definitions are retained, but now would be recited directly in the main text of the Faculty Handbook.

### **Why shouldn't NKU faculty members be allowed to recycle their scholarly work in redundant or duplicate publications without citing the prior work?**

The *2002 NKU Investigative Report* answers this question as follows:

Readers of proceedings and journal articles have a right to know what is new and original in the work in question and how the work is related to previously published material. This requires fair attribution of prior work, including work by the same authors. Because evaluation of faculty members at the University depends in part on an evaluation of their scholarly activity, the obligation to disclose debts to prior work to readers is especially important for those at the University who evaluate performance. Department committees that make decisions on reappointment, promotion, and tenure; chairs that make these same decisions and also decisions about salaries and merit raises; and higher administrators who do the same – all are entitled to a fair understanding of the origins and nature of the scholarly work.<sup>8</sup>

The PCC concurs in these views. Accordingly, PCC does not consider it a “best practice” for NKU faculty members to recycle scholarly work in redundant or duplicate publications without citing the prior work, or to permit their colleagues to do so without consequence.

### **What was this 2002 Investigative Report about?**

In 2002, five professors in the NKU Department of Finance were found to have co-authored and published 23 articles whose content overlapped significantly, over a period of nearly a decade. The faculty investigating committee described its findings as follows:

[The overlap between the papers was] not simply minor duplication of sentences or even an occasional paragraph. In some cases it amounts to essentially an entire paper being recycled. In every instance, the redundancy is accompanied by a failure to cite the prior and duplicated work. In fact, none of the twenty three papers cite any of the others. In almost every instance, very similar papers have been given quite distinct

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<sup>7</sup> ibid.

<sup>8</sup> ibid. at 6. See also Michael R. Carroll & Sara Sidebottom, *Business School Ethical Dilemma: A Case Study*, 2 *Business Renaissance Quarterly* 91, 99 (Summer 2007) (noting that many journals have “explicit policies about duplicative or redundant publications which generally provide that by submitting a paper for review the authors certify that the work has not been previously published, accepted for publication, presented or submitted elsewhere”; such policies reflect “generally accepted expectations of academic submissions”).

titles, with no suggestion of the relationship between the papers. They have in most cases then been submitted to different outlets for presentation and publication. The Committee considers the packaging of this redundant material to be part of a deliberate and extended pattern of deceit, intended to present the papers in question as entirely new work. The Committee considers this particular deviation from accepted practices to be research misconduct. It will be reported as “deceitful duplication of material.”

In 2003, this committee’s conclusion was endorsed by the NKU General Counsel, Provost, President, and Board of Regents. Under the administration’s present proposal, in contrast, such conduct would no longer fall within NKU’s definition of “research misconduct.”

**Are NKU students allowed to recycle the same academic work in more than one course without acknowledging the prior work?**

No. An NKU student may not “[s]ubmit an examination, assignment, or graduation requirement that the student has or will submit for credit in another course, without express approval from the professors in each of the courses.”<sup>9</sup> The PCC believes that NKU students should not be held to a higher standard of integrity in their coursework than NKU faculty members are held to in our scholarly and creative activity.

**Should NKU’s policy reflect the variation in accepted practices across academic fields?**

Yes. PCC recommends that the Handbook definition of “research misconduct” (Section 16.7.2.5) should state that “The question of what constitutes a serious deviation from accepted scholarly practices must be resolved by applying the standards and norms of the particular academic discipline at issue.” Research practices that are generally accepted within an NKU faculty member’s scholarly field cannot be deemed “misconduct” under this definition.

**Got it. So what is the other controversy over a “statute of limitations”?**

Under the current NKU Faculty Handbook, investigations may take place whenever evidence of misconduct is discovered and reported. The NKU administration, however, sought to introduce a “safe harbor,” in which misconduct generally would become immune from investigation if it remained undetected or unreported for six years. Because some forms of misconduct (such as plagiarism) may remain undetected for a long time but yet remain easy to prove when discovered, the PCC did not recommend setting any fixed “safe harbor” time period.

**Is there some law that requires NKU to relax our current standards of research integrity?**

No. For most NKU faculty members, the standards of integrity that govern scholarly and creative activity are established by academic/institutional norms and policies, not by laws

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<sup>9</sup> NKU Student Honor Code Sec. H.2.1.f, codified at NKU Code of Student Rights and Responsibilities Sec. V.H.2.1.f (2012), <<https://inside.nku.edu/scra/information/students/rights-responsibilities.html#policies>>.

or regulations.<sup>10</sup> For NKU faculty members who perform federally-funded behavioral and biomedical research, however, the standards of research integrity also are governed, in part, by US Department of Health & Human Services (HHS) regulations (42 CFR Part 93). For such federally-funded research, these HHS regulations require NKU to investigate certain allegations concerning data fabrication, falsification, and plagiarism, and to deploy certain investigative procedures in so doing. To ensure that our Handbook remains in compliance with these regulations, all pertinent text provided by the Provost's office was incorporated into PCC's recommendation.

Importantly, however, the federal regulations set forth in 42 CFR Part 93 set only minimum permissible standards of integrity for federally-funded behavioral and biomedical research. Those HHS regulations do not prohibit institutions from setting higher standards. To the contrary, Section 102(d) of the HHS regulations explicitly states that the government "does not prohibit or otherwise limit how institutions handle allegations of misconduct that do not fall within this part's definition of research misconduct or that do not involve PHS support." 42 CFR § 93.102(d) (emphasis added).

In short, NKU is neither required nor prohibited by federal regulations to police any of the following forms of research misconduct:

- Misconduct in scholarly or creative activity that is not federally funded;
- Misconduct that remains undiscovered or unreported for six years (with exceptions);
- Recycling of material in redundant or duplicate publications, compounded by a failure to cite the prior work (i.e. "self-plagiarism"); or
- Other serious deviations from accepted practices.

With respect to each of these forms of research misconduct, NKU is free to adopt whatever substantive policy best suits NKU.

### **Is it *possible* for the PCC-recommended Handbook policy to conflict with federal law?**

No. Section 16.7.2.5 of the new Handbook language recommended by PCC would provide:

In cases of allegations involving activities submitted to or supported by a federal agency where definitions or procedures for research misconduct specified in the agency's regulations differ from those in this policy, the definitions and procedures in the agency's regulations will be used.

By this language, the Handbook itself would require that federal laws and regulations must be adhered to in all instances in which they apply, including in instances where contrary

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<sup>10</sup> See **2002 Investigative Report** at 4 (finding it unnecessary to investigate any "failure to meet other material legal requirements governing research" because "No federal funding was involved for the research under investigation in this case").

Handbook provisions otherwise might apply. Accordingly, this language renders it impossible for the PCC-proposed Handbook language to conflict with any federal law or regulation.

**The HHS regulations don't require NKU to investigate "self-plagiarism"? Doesn't this mean that HHS doesn't think "self-plagiarism" is all that bad?**

Although applicable HHS regulations neither prohibit nor require institutions like NKU to police "self-plagiarism," the HHS Office of Research Integrity continues to characterize "self-plagiarism" as one of "the most serious negative consequences" of the present academic ecosystem. It observes:

As can be expected, and in the context of decreasing or, at best, stagnant funding for research, the current reward system produces a tremendous amount of pressure for scientists to generate as many publications as possible. Unfortunately, some of the most serious negative consequences of the present system, aside from fabrication, falsification and outright plagiarism, are the problems of duplicate publication and of other forms of redundancy. In the sciences, duplicate publication generally refers to the practice of submitting a paper with identical or near identical content to more than one journal, without alerting the editors or readers to the existence of its earlier published version.<sup>11</sup>

The HHS Office of Research Integrity does not consider it a "best practice" for researchers to recycle scholarly work in redundant or duplicate publications without citing the prior work, or to permit their colleagues to do so without consequence.

**Do NKU's accreditors want NKU to stop policing "self-plagiarism"?**

No. In 2003, the NKU College of Business removed five faculty members from the classroom, mid-semester, after finding that those faculty members had engaged in a course of research misconduct, including fraudulent submission of duplicative or redundant publications. When provided with the faculty committee's investigative report, the College's accreditor concluded that in removing tenured faculty members for fraudulent submission of duplicative or redundant publications, "Northern Kentucky University acted appropriately and decisively to correct the internal research misconduct."<sup>12</sup>

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<sup>11</sup> See, e.g., HHS Office of Research Integrity, **Avoiding Plagiarism, Self-plagiarism, and Other Questionable Writing Practices: A Guide to Ethical Writing** (2003, revised 2015), online at <<https://ori.hhs.gov/plagiarism-14>>.

<sup>12</sup> AACSB Maintenance Accreditation Committee Letter (2003), *quoted in* Michael R. Carroll & Sara Sidebottom, Business School Ethical Dilemma: A Case Study, 2 **Business Renaissance Quarterly** 91, 106 (Summer 2007).

## MEMORANDUM

To: Faculty Senate

From: Prof. Ken Katkin, Chase College of Law, on behalf of PCC

Re: Documents Cited in University Counsel's Memorandum of October 11, 2019

Date: October 28, 2019

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On October 11, 2019 NKU General Counsel Joan Gates submitted a 94-Page Memorandum (the "Gates Memorandum") to NKU Faculty Senate. The Gates Memorandum addresses NKU's research misconduct policy, which is currently codified at Section 16.7 of the NKU Faculty Handbook. In order to assist Faculty Senate in evaluating the 94-Page Gates Memorandum, this Memorandum compiles the pertinent provisions of certain primary source documents cited in the Gates Memorandum and—in many cases—included in the Gates Memorandum's attached Exhibits.

The primary source documents set forth here concern the following issues raised in the Gates Memorandum:

- (1) The Federal Definition of Research Misconduct Set Forth in 42 CFR Part 93**
- (2) The Office of Research Integrity's Questions and Answers Regarding 42 CFR Part 93**
- (3) The White House Office of Science & Technology Policy (OSTP) Primer on "Federal Policy on Research Misconduct"**
- (4) Other Universities' Definitions of Research Misconduct**
- (5) Due Process of Law**
- (6) The "Change in Law" That Occurred in 2005.**

**[Please proceed to following pages]**

1

**(1) The Federal Definition of Research Misconduct**

On Page 2, the Gates Memorandum states that “the definition the PCC has proposed for research misconduct is not consistent with current law.” According to this Memorandum, NKU “must follow the federal definition for research misconduct” that is set forth in US Department of Health & Human Services (HHS) regulations codified at 42 C.F.R Part 93. The Gates Memorandum also claims that these HHS regulations prohibit NKU from investigating any forms of misconduct other than fabrication, falsification, or plagiarism.

Below are the pertinent provisions of the HHS regulations at issue, including 42 C.F.R. § 93.103 (which is cited in the Gates Memorandum) and also 42 C.F.R. § 93.102(d) and 42 C.F.R. § 93.319(a), which were omitted from the Gates Memorandum.

42 C.F.R.

§93.102 Applicability.

(b)(1) This part applies to allegations of research misconduct and research misconduct involving:

(i) Applications or proposals for PHS support for biomedical or behavioral extramural or intramural research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information;

(ii) PHS supported biomedical or behavioral extramural or intramural research;

(c) This part does not supersede or establish an alternative to any existing regulations or procedures for handling fiscal improprieties, the ethical treatment of human or animal subjects, criminal matters, personnel actions against Federal employees, or actions taken under the HHS debarment and suspension regulations at 45 CFR part 76 and 48 CFR subparts 9.4 and 309.4.

(d) This part does not prohibit or otherwise limit how institutions handle allegations of misconduct that do not fall within this part’s definition of research misconduct or that do not involve PHS support.

42 C.F.R.

§93.103 Research misconduct.

Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

42 C.F.R.

§93.319 Institutional standards.

(a) Institutions may have internal standards of conduct different from the HHS standards for research misconduct under this part. Therefore, an institution may find conduct to be actionable under its standards even if the action does not meet this part’s definition of research misconduct.

(b) An HHS finding or settlement does not affect institutional findings or administrative actions based on an institution’s internal standards of conduct.

**(2) The Office of Research Integrity's Questions and Answers**

Also on Page 2, the Gates Memorandum cites a document published by the Office of Research Integrity of the US Department of Health & Human Services, entitled **Questions and Answers 42 CFR Part 93**. This document can be found online at <<https://ori.hhs.gov/sites/default/files/QandA.reg.6-06.pdf>>, and also appears in full as Exhibit C of the Gates Memorandum. On Page 6 of that Office of Research Integrity document, the following "Q&A" is set forth:

**EXHIBIT C: Questions and Answers Regarding 41 CFR Part 93**

**Question and Answers  
42 CFR Part 93**

These questions and answers are intended to: (1) Assist institutional research integrity officers (RIOS), compliance officers, institutional counsel, and other institutional officials in understanding the obligations of institutions under the new regulation, to be codified at 42 Code of Federal Regulations (CFR) Part 93; (2) Assist PHS funded researchers and respondents, complainants, witnesses and other involved parties in understanding how the regulation affects them; and (3) Provide information about the new regulation to interested members of the public. For ease of reference, the answers refer to the pertinent section or sections of the regulation.

**Q: May an institution have different standards and definitions for research misconduct than those in the final rule?**

**A: Yes. Although an institution must apply the regulatory definitions, standards, and requirements in evaluating an allegation of research misconduct reported to ORI, it may also apply its internal definitions or standards in determining whether misconduct has occurred at the institutional level. An institution may find misconduct under its internal standards and impose administrative sanctions based on that finding, regardless of whether the institution or ORI makes a finding of research misconduct under the HHS standard. Section 93.319.**

US Department of Health & Human Services, Office of Research Integrity, **Questions and Answers 42 CFR Part 93**, at 6, <<https://ori.hhs.gov/sites/default/files/QandA.reg.6-06.pdf>> (emphasis added), **included in** Exhibit C of Memorandum from NKU General Counsel Joan Gates to NKU Faculty Senate Executive Committee (Oct 11, 2019).

**(3) The White House Office of Science & Technology Policy (OSTP) Primer on “Federal Policy on Research Misconduct”**

In Exhibit D, under the subheading “Federal Policy,” the Gates Memorandum includes a document entitled “**Federal Policy On Research Misconduct.**” This document was published in 2002 by the White House Office of Science & Technology Policy (OSTP). Below is Section VI of that document, which appears in Exhibit D of the Gates Memorandum.

**EXHIBIT D: Various Institutions Definitions of Research Misconduct**

# FEDERAL POLICY

**VI. Roles of Other Organizations**

This Federal policy does not limit the authority of research institutions, or other entities, to promulgate additional research misconduct policies or guidelines or more specific ethical guidance.

White House Office of Science & Technology Policy, **Federal Policy On Research Misconduct** Sec. VI (Nov. 11, 2002), <https://www.aps.org/policy/statements/upload/federalpolicy.pdf>, included in Exhibit D of Memorandum from NKU General Counsel Joan Gates to NKU Faculty Senate Executive Committee (Oct 11, 2019).



#### **(4) Other Universities' Definitions of Research Misconduct**

On Page 2, the Gates Memorandum states that text-recycling, self-plagiarism, or duplicative publication “do not rise to the level of research misconduct under law or in any other institution.” On Page 3, the Gates Memorandum reiterates that “the PCC’s inclusion of the language regarding ‘redundant or duplicate publications’ . . . is simply not part of . . . any other institution’s definition of research misconduct,” and that “adding the term ‘self-plagiarism’ contradicts the definition of ‘research misconduct’ as . . . other research institutions have defined.”

The following pages set forth definitions of “research misconduct” that are employed by some other research institutions:

**[Please proceed to following pages]**



## Faculty Handbook

Produced by the Office of the Executive Vice President and Provost  
Approved by the Virginia Tech Board of Visitors  
August 26, 2019

### 2.23 Professional Responsibilities and Conduct

#### 2.23.1 Statement of Principles of Ethical Behavior

##### 2.23.1 Statement of Principles of Ethical Behavior

The faculty of Virginia Tech believe that academic freedom is essential to attain our missions as scholars and teachers. We also recognize and accept the responsibilities attendant to academic freedom as fundamental to a scholarly community. We believe we must exercise our rights with due regard to the rights of others and we must meet our obligations fully as faculty members. We hold ourselves accountable to ensure that the faculty of Virginia Tech is recognized for its commitment and leadership to pursue knowledge, to promote the free expression of ideas, to teach our students, and to serve the citizens of Virginia.

**Scholarship.** Guided by a deep conviction of the worth and dignity of the advancement of knowledge, we recognize our primary responsibility to our disciplines is to seek and to state the truth. To this end, we devote our energies to developing and improving our scholarly competence. We accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. We practice intellectual honesty and do not compromise our freedom of inquiry. At Virginia Tech, self-plagiarism is considered unethical behavior. Self-plagiarism occurs when authors reuse substantial parts of their own published work as new without providing appropriate references to the previous work if this reuse deviates materially from standard practice in the field.

**Policy Number: RE0001**  
**The University of Tennessee Policy and Procedures on**  
**Responsible Conduct in Research and Scholarly Activities\***

(Effective September 15, 2016)

22. Redundant Publication (sometimes called self-plagiarism) means either multiple publications of the same material, by the same author, to the extent that the core of the new document fails to constitute an original contribution to knowledge. Redundant Publication can constitute Research Misconduct, depending on the standards of the relevant discipline and scientific community.<sup>21</sup>

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\* This document includes both policy and required procedures for implementing the policy. Use of the word "policy" within this document includes all related procedural requirements. This policy was approved and adopted by the President pursuant to the Board of Trustees' delegation of authority regarding research misconduct policy and procedures (October 2014) and supersedes the Policy on Misconduct in Research and Service approved and adopted by the Board of Trustees on October 28, 2005.

<sup>21</sup> For developing guidance on redundant publication, dual publication, self-plagiarism, "salami-slicing" and similar topics, see, e.g., the ORI guidance web module: Avoiding plagiarism, self-plagiarism, and other questionable writing practices: A guide to ethical writing, at <http://ori.hhs.gov/avoiding-plagiarism-self-plagiarism-and-other-questionable-writing-practices-guide-ethical-writing>.



### III-1.10(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES CONCERNING SCHOLARLY MISCONDUCT

(Approved by the President August 1, 1991; Revised May 11, 2000; Revised May 13, 2008; Technical Amendment April 6, 2009; Approved on an Interim basis June 29, 2017; Amended and approved March 12, 2019)

**“Scholarly Misconduct”** means Fabrication, Falsification, Plagiarism, or any other practice that seriously deviates from practices commonly accepted in the discipline or in the academic and research communities. Scholarly Misconduct may take many forms, including, but not limited to, Improprieties of Authorship; Abuse of Confidentiality/Misappropriation of Ideas; Deliberate Misrepresentation of Qualifications; Deliberate Material Failure to Comply with Federal, State, or University Requirements Affecting Research; and Violation of Generally Accepted Research Practices. Other common terms such as research fraud, scientific misconduct, or research misconduct are subsumed within Scholarly Misconduct for the purposes of this policy. Scholarly Misconduct does not include appropriative practices in the Creative Arts insofar as they accord with accepted standards in the relevant discipline. Scholarly Misconduct does not include unintentional error or differences in the interpretation or judgment of Research data or results that can be reasonably substantiated by the data or results.

**“Self-Plagiarism”** means the representation of the same materials as original in more than one publication. Self-Plagiarism can include reuse of one’s own words, images, data, or other products of Research without appropriate attribution and/or, in the case in which copyright is held by another person or organization, without receiving appropriate permission. When not in accordance with accepted standards in the relevant discipline, Self-Plagiarism may constitute Scholarly Misconduct.

University of Pittsburgh

# GUIDELINES FOR RESPONSIBLE CONDUCT OF RESEARCH

Revised: March 2011

OFFICE OF RESEARCH INTEGRITY  
132 CATHEDRAL OF LEARNING  
412-624-3007

## 4. Authorship and Other Publication Issues

### d. Duplicate Publication

Researchers should not publish the same article in two different places without very good reason to do so, unless appropriate citation is made in the later publication to the earlier one, and unless the editor is explicitly informed. The same rule applies to abstracts. If there is unexplained duplication of publication without citation, sometimes referred to as self-plagiarism, a reader may be deceived as to the amount of original research data.

It is improper in most fields to allow the same manuscript to be under review by more than one journal at the same time. Very often journals specify that a submitted work should not have been published or submitted for publication elsewhere, and some journals require that a submitted manuscript be accompanied by a statement to that effect.

An author should not divide a research paper that is a self-contained integral whole into a number of smaller papers merely for the sake of expanding the number of items in the author's bibliography.

Publication of two papers representing different interpretations of the same data by different participants in the research is confusing to readers. The participants with differing interpretations of the same data should attempt to reconcile their differences in a single publication or present their alternative interpretations in the same paper.

## **(5) Due Process of Law**

On Pages 2-3, the Gates Memorandum states that the definition of research misconduct that has long appeared in Section 16.7 of the current NKU Faculty Handbook [and which PCC proposes to retain] is an “ambiguous and vague definition . . . [that] will lead to arbitrary application of the policy, unfairness, and due process issues and potential claims of discrimination.”

Although the current definition has been part of NKU policy for decades and has been enforced against self-plagiarism and text-recycling in NKU’s past, the Gates Memorandum provides no examples from NKU’s long history of any such due process violations. Instead, the Gates Memorandum cites an article Emeritus Chase College of Law Professor Roger Billings that was published in 38 UNIVERSITY OF SAN FRANCISCO LAW REVIEW 396, 408 (2004). Below is an excerpt from that article, which sets forth Prof. Billings’s assessment of whether NKU’s violated Due Process of Law when it enforced Section 16.7 in 2002 against five NKU Finance professors who committed mass self-plagiarism.

**The NKU process, which is not described in any judicial proceeding, is very similar to the University of Massachusetts process. It is striking that in each process the protection of the accused professors’ Fourteenth Amendment rights seems more than adequate, if not even excessive.**

Roger Billings, Plagiarism In Academia and Beyond: What Is The Role of the Courts?, 38 UNIVERSITY OF SAN FRANCISCO LAW REVIEW 396, 411 (2004). Moreover, Prof. Billings added that:

**When professors and students have filed suits challenging their termination on due process grounds, universities have had little trouble sustaining the termination. Their best defense is simply to show that they had reasonable written notice and hearing procedures, which they followed.**

ibid. at 412.

## (6) The Supposed “Change in Law” That Occurred in 2005.

The Gates Memorandum acknowledges that the research misconduct policy currently set forth in Section 16.7 of the NKU Handbook was properly and successfully invoked in 2002 to investigate self-plagiarism, text-recycling, and duplicative publication at NKU. But on Page 3, the Memorandum asserts that “federal law regarding research misconduct changed in 2005. Consequently, NKU needs to update its policies to current law.”

In fact, however, the “changes” that were belatedly codified by the US Department of Health and Human Services in 2005 had already been made five years earlier by the White House Office of Science & Technology Policy.<sup>1</sup> Indeed, this chronology is set forth on the final page of the University of Kentucky’s Research Misconduct Policy, which is included in Exhibit D of the Gates Memorandum:



UNIVERSITY OF  
**KENTUCKY**  
Regulations

### Administrative Regulation 7:1

Responsible Office: Provost / Vice  
President of Research

Date Effective: 2/19/2007

Supersedes Version: 6/28/2004

## Research Misconduct

## IVX. References and Related Materials

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The University of Kentucky’s administrative regulation regarding research misconduct is based on the OSTP (Office of Science and Technology Policy) “The Federal Policy of Research Misconduct” which became effective December 6, 2000. DHHS (Department of Health and Human Services) adopted the policy on June 15, 2005 (42 CFR 93). The OSTP policy has been adopted by multiple federal agencies and other federal agencies are in the process of adopting it with the goal that all government agencies that fund research use the policy.

This timeline is important because the changes in federal policy that were made in 2000 (not in 2005) were discussed in NKU’s 2002 Investigative Report, which was adopted in 2003 by the NKU Board of Regents upon recommendation of NKU’s President, Provost, and General Counsel. That discussion appears on the next page:

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<sup>1</sup> See **Federal Policy On Research Misconduct** (Nov. 11, 2002) (“Federal Policy”), <https://www.aps.org/policy/statements/upload/federalpolicy.pdf>, included in Exhibit D of the Gates Memorandum.

# Investigative Report: General Findings

## Section 3 Research Misconduct Issues

The concerns that brought the case to the Committee and the Committee's subsequent focus have been the four prongs of the first stated offense: fabrication, falsification, plagiarism, or serious deviations from accepted practices.

These four prongs closely matched those utilized by federal government agencies up until 2000 or later. Following a decade of discussion and reports, the federal Office of Science and Technology in the Executive Office of the President issued a revised policy on research misconduct in 2000. The fourth prong in NKU's policy – serious deviation from accepted practices – is no longer a part of the federal policy and there has been some question about our continued use of this clause. However, although the federal policy no longer includes the “deviation from accepted practices” clause, it does not preclude its use. The federal guidelines, which apply only to federally sponsored research, explicitly recognize the authority of universities to add to the federal guidelines.

### 3.2 Serious Deviations from Accepted Practices

The serious deviation from accepted practices that the Committee considered in this case is the recycling of material in redundant or duplicate publications, compounded by a failure to cite the prior work.

“Redundant or duplicate publications” refers to publications in which a substantial portion of the work has already been published. It also includes the situation in which the work is either so similar to previously published material or so modest an extension of previously published work that it would not be viewed as significant were the previous publication acknowledged.

“Failure to cite prior work” refers to papers that are presented as if the material were new when in fact the authors have previously published much of the body of the work before. An extension or recycling of previous work must be viewed as such, not as a new and original contribution. Readers of proceedings and journal articles have a right to know what is new and original in the work in question and how the work is related to previously published material. This requires fair attribution of prior work, including work by the same authors. Because evaluation of faculty members at the University depends in part on an evaluation of their scholarly activity, the obligation to disclose debts to prior work to readers is especially important for those at the University who evaluate performance. Department committees that make decisions on reappointment, promotion, and tenure; chairs that make these same decisions and also decisions about

<sup>1</sup> See **Federal Policy On Research Misconduct** (Nov. 11, 2002),

<https://www.aps.org/policy/statements/upload/federalpolicy.pdf>, included in Exhibit D of the Gates Memorandum.



### 3. EVALUATION FOR REAPPOINTMENT, PROMOTION, AND TENURE

According to the Statement on Collegial Governance at NKU, “[u]nder the collegial system, decision-making authority is delegated or assigned to the collegial group most expert in or responsible for the particular area in which the decision is made.” Further, “[g]enerally speaking, faculty bodies have primary responsibility for recommendations in matters directly related to academics, including ... faculty status....” Specifically, faculty bodies are given the responsibility over “academic personnel decisions,” which includes reappointment, promotion, and tenure.

#### 3.1 CRITERIA

In making evaluations required for reappointment, promotion, and tenure, three major categories of professional responsibility are to be used. These categories, in order of importance, are teaching effectiveness; scholarship and creative activity; and service to the University, the discipline/profession and the community.

All academic units must have specific guidelines concerning expectations for reappointment, promotion, and tenure, what materials may be considered in each review category, what constitutes appropriate documentation, and how materials will be evaluated. All guidelines must be approved by a majority of the tenured / tenure-track faculty within the affected unit(s), the Chair or School Director, the Dean, and the Provost. Upon final approval by the Provost, all faculty within the affected units(s) must be notified and guidelines must be made available. All new faculty will be given a copy of these guidelines at the time of their hiring.

##### 3.1.1 TEACHING

Teaching includes all work that is intended primarily to enhance student learning. Assessment of teaching effectiveness should take into account documented student learning, contact hours, preparations, service learning, delivery method, and/or number of students.

##### 3.1.2 SCHOLARSHIP AND CREATIVE ACTIVITY

Scholarship and creative activity includes all work that is related to the applicant’s academic discipline or current role at the University. To qualify as scholarship or creative activity, the activity should require a high level of discipline-related or interdisciplinary expertise, and meet the standards of the discipline for scholarly and creative activity. NKU values transdisciplinary scholarship, scholarship of teaching, and scholarship of engagement in addition to traditional scholarship and creative activity.

##### 3.1.3 SERVICE TO THE UNIVERSITY, THE DISCIPLINE/PROFESSION, AND/OR THE COMMUNITY

Service includes all work that contributes to the effective operation, governance, and advancement of programs, departments, schools, colleges, the University, one’s discipline, and/or the community. Service also includes public engagement activities.

#### 3.2 PROCEDURES FOR DECISIONS ON REAPPOINTMENT, PROMOTION, AND TENURE

As stated in Kentucky law, all persons involved in evaluation of personnel shall consider all information received and all deliberations as confidential unless disclosure is required by law. For

purposes of communication of written recommendations, electronic versions of the documents are acceptable replacements.

### 3.2.1 TIME SCHEDULE

Each spring, the provost will issue a calendar listing deadlines for each step in the evaluation process for the coming academic year, a template for dossier preparation, and notification of any updates to the process.

Applications for reappointment are reviewed biennially. Each biennial review is cumulative but should be focused on the contract years under review. Each review shall consider the information provided in the applicant's dossier from the contract years under review; however, this does not prohibit documentation and/or information from previous years to be included in the evaluation. Other than exceptions defined in section 6.7, which may grant extensions, applications for tenure are ordinarily reviewed by the sixth year. The dossier for tenure will be evaluated in its full context, including all years of service and any credit for prior service negotiated at the time of the initial appointment.

### 3.2.2 INITIATION OF REQUEST

The applicant is responsible for initiating consideration by applying for reappointment, promotion, tenure, or a combination of them. A full-time administrator with academic rank may apply for tenure or promotion supported by documentation. The applicant will compile and submit an RPT dossier no later than 4:30 pm on the last working day of August of the academic year of their request for consideration.

### 3.2.3 DEPARTMENTAL/SCHOOL COMMITTEE

Each department or school, or in the case of SOTA, program, shall have a reappointment, promotion, and tenure (hereinafter, RPT) committee consisting of at least five tenured faculty members elected at a regular or special department or school faculty meeting. If necessary, a separate committee may be formed to consider promotion to full professor. Each department or school, or, in the case of SOTA, program, committee must have the same membership in a given year, with the exception of additional external members (see Section 3.2.4). Additionally for promotion committees, these five faculty members must be at least one rank above the level of the applicants. The RPT committee shall be formed from faculty within the department or school, if five or more tenured faculty of appropriate rank are available to serve. If there are not enough faculty members of appropriate rank available to form a committee of five, those faculty initially chosen to serve, in consultation with the department chair or school director, shall prepare a list of tenured faculty of appropriate rank from other departments, schools, or colleges. When choosing additional faculty members, preference shall be given to faculty members in departments or schools with affinity to the applicant's department or school. The RPT committee will fill its membership by appointing faculty from this list.

Commented [JF1]: Wording change to be clearer, but no material change from the Handbook.

The members of the committee shall elect their own chair. The committee chair shall notify the department chair or school director of committee membership within ten working days of election.

### 3.2.4 DEPARTMENTAL/SCHOOL COMMITTEE: ELIGIBILITY

All tenure-track faculty in the department or school are eligible to vote to elect the committee membership. Only full-time tenured faculty may serve on the committee. The department chair or

school director may not serve on the committee. Department chairs or school directors in other departments or schools may serve on the committee **provided that they are in a different college.** Assistant and associate deans with faculty appointments serving as administrators with reassigned time may serve on the committee **provided that they are serving as administrators in a different college.** Tenured faculty with appointments in more than one department/school or discipline may serve on the committee of any department/school or discipline in which they hold an appointment. Faculty on sabbatical or paid leave are eligible but not required to serve on the committee. Faculty on unpaid leave are not eligible to serve on the committee. **The Faculty Senate President will not serve on a department/school RPT committee unless there is fewer than five eligible faculty members available, in which case the Faculty Senate President can serve but will not chair the committee.**

Upon agreement of RPT committee members, the department chair or school director, the appropriate dean, and the applicant, faculty external to the University and of suitable rank and tenure may serve **as an additional member** on the committee. Persons holding full-time administrative appointments, as defined in Section 1.8.1 are not eligible to serve on the committee. In departments or schools where no faculty members are eligible to serve on a needed RPT committee, the department or school faculty shall serve in place of the department or school committee members to elect suitable RPT committee members.

### 3.2.5 DEPARTMENT/SCHOOL COMMITTEE: DELIBERATIONS

A quorum of an RPT committee shall be four-fifths (4/5) of its members; a quorum is required in order for the committee to act.

Material considered by the RPT committee must include, but may not be limited to, the applicant's submissions. The committee may consider supplemental material consistent with department/school guidelines that will aid in its decision. **If there is no department/school, college guidelines may be used. Material that is inconsistent with the department/school or college guidelines may not be considered.** If material not submitted by the applicant is considered, the applicant must be notified **immediately of this material in writing.** **Any supplemental material considered by the RPT committee becomes a part of the dossier going forward and should be clearly marked as supplemental material added by the committee. The letter from the committee to the department chair/school director should also note and comment on the supplemental material.** As part of its deliberations, the RPT committee may meet with the applicant when such a meeting aids in the committee's decision process.

If an RPT committee requires clarification on any procedural matter, the committee should make this request to the respective department chair or school director. Committees should not ordinarily make requests to the dean, provost, university counsel, human resources, or any other university official or department.

### 3.2.6 DEPARTMENT/SCHOOL COMMITTEE: VOTING AND REPORTING

**Nominally, each member of the committee, including the chair, shall have one vote for each applicant. In recognition of the importance of this process to the integrity of the institution, each member is expected to carefully review the relevant materials, participate as fully as possible in committee deliberations, and exercise their best professional judgment in voting either for or against a recommendation. Members may not vote to abstain. Proxy votes are acceptable if circumstances prevent a member from being physically present for the vote, provided the member reviewed the materials and participated in the committee deliberations. A member who has not reviewed the submitted materials or fully participated in committee discussion about an**

applicant cannot vote on the recommendation of that applicant. It is the responsibility of the committee chair to ascertain from each member whether they have fully participated in the committee discussions and review of each candidate to be eligible to vote. The chair will make an announcement to the committee and take note of who is eligible to vote. A quorum must be present for a vote to take place, and a minimum of 4 members must vote.

The recommendation of the committee shall be reported in writing to the department chair or school director and must be characterized as either unanimous or non-unanimous. The recommendation of the committee will reflect the committee's deliberations and must be signed by all committee members who voted. Members who did not vote should not sign the letter. In cases where the committee vote is not unanimous, support for both positive and negative votes must be included in the recommendation. In the case of a tie vote, the committee's recommendation will be deemed a positive recommendation. A copy of the recommendation will be given to the applicant. After receiving a negative recommendation from the committee, the applicant may elect within three business days to withdraw the application and terminate the RPT process. When a negative recommendation is made, the applicant shall be informed, in writing, of the right to request a formal reconsideration, according to Section 3.2.14.

#### 3.2.7 CHAIR/DIRECTOR

No sooner than three business days after receipt of the committee recommendation, the department chair or school director shall make a recommendation to the dean in writing. The chair or director may consult with the department or school committee prior to making a recommendation, but not with committee members individually. As part of his or her deliberations, the department chair or school director may meet with the applicant to aid in his or her decision. The reasons for the department chair's or school director's recommendation, whether positive or negative, shall be included in the recommendation. In exceptional cases, supplemental material may be considered. Material that is inconsistent with the department/school guidelines may not be considered. If the applicant's appointment is not within a department or school, material that is inconsistent with college guidelines may not be considered. If material not submitted by the applicant is considered, the applicant must immediately be provided with all such material, with copies to the RPT committee. If supplemental material is considered and the recommendation that is made is not the same as the one made by the RPT committee, the chair will offer to meet with both the applicant and RPT committee separately. If it elects to do so, the RPT committee may write a letter which shall accompany the chair's/director's recommendation, in which the committee sets forth its view of the relevance of the supplemental material and of the chair/director recommendation.

The department chair or school director shall forward his or her recommendation, the department or school committee's recommendation, and the applicant's file to the appropriate dean. A copy of the department chair's or school director's recommendation shall be given to the applicant and all members of the department or school committee. When a negative recommendation is made, the applicant shall be informed, in writing, of the right to request a formal reconsideration, according to Section 3.2.14.

#### 3.2.8 DEAN

After the receipt of the recommendations from the department/school committee and the department chair/school director, the dean shall make a recommendation to the provost in writing. The reasons for the dean's recommendation, whether positive or negative, shall be included in the written recommendation. The dean may consult with the department or school

committee and/or the department chair or school director prior to making a recommendation but not with individual committee members. As part of his or her deliberations, the dean may meet with the applicant to aid in his or her decision. In exceptional cases, supplemental material may be considered. Material that is inconsistent with the department/school guidelines may not be considered. If the applicant's appointment is not within a department or school, material that is inconsistent with college guidelines may not be considered. If material not submitted by the applicant is considered, the applicant must immediately be provided with all such material, with copies to the RPT committee and chair/director. If supplemental material is considered and the recommendation that is made is not the same as the one made by the RPT committee, the dean will offer to meet with the applicant, the RPT committee, and the chair/director separately. If it elects to do so, the RPT committee may write a letter which shall accompany the dean's recommendation, in which the committee sets forth its view of the relevance of the supplemental material and of the dean's recommendation.

The dean shall forward this recommendation, the department chair's or school director's recommendation, the department or school committee's recommendation, and the applicant's file to the provost. A copy of the dean's recommendation shall be given to the applicant, the department chair or school director, and all members of the department or school committee. When a negative recommendation is made, the applicant shall be informed, in writing, of the right to request a formal reconsideration, according to Section 3.2.14.

#### 3.2.9 PROVOST

After receipt of the dean's recommendation, the department chair's or school director's recommendation, the department or school committee's recommendation, and the applicant's file, the provost shall make a written recommendation to the president. The reasons for the provost's recommendation, whether positive or negative, shall be included in the written recommendation. The provost may consult with the department or school committee, the department chair or school director, the dean, or with any combination of them but not with individual committee members. As part of his or her deliberations, the provost may meet with the applicant to aid in his or her.

A copy of the provost's recommendation shall be given to the applicant, the dean, the department chair or school director, and all members of the department committee. When a negative recommendation is made, the applicant shall be informed, in writing, of the right to appeal using the procedures set forth in Section 14, Grievances.

#### 3.2.10 PRESIDENT

The president will forward the provost's recommendation to the Board of Regents.

#### 3.2.11 BOARD OF REGENTS

Reappointment, promotion, and tenure may be granted only by the Board of Regents, and then only upon the recommendation forwarded by the president of the University. The Board shall act in accordance with statutory requirements and the bylaws of the Board of Regents.

#### 3.2.12 NOTICE OF NON-REAPPOINTMENT

Notice of non-reappointment of a probationary contract must be in writing, by the provost, and given at least 12 months before the expiration of an appointment.

- Not later than December 15 of the second academic year of service;

- ~~At least 12 months before the expiration of an appointment after two or more years of service at the University.~~

### 3.2.13 WITHDRAWAL OF APPLICATION

After receiving a negative recommendation from the RPT committee, the applicant may elect within three business days to withdraw the application and terminate the RPT process. If the process is terminated in a non-mandatory year for tenure and promotion or during promotion to full professor, there is no prejudice for future applications. If the application is withdrawn and the process is terminated in a mandatory year for promotion and tenure, normally the sixth year, the contract terminates the following May. If the faculty member fails to initiate the request for RPT, the contract will terminate the following May. However, after consultation with the department/school faculty, chair/director, and dean, the provost may offer a terminal year contract.

### 3.2.14 FORMAL RECONSIDERATION AND GRIEVANCE

In the case of a negative recommendation concerning reappointment, promotion, tenure, or any combination of them, the applicant has the right to a formal reconsideration only at the level of the initial negative recommendation. An “initial” negative recommendation is defined as the first negative recommendation given for a particular reason. If a negative recommendation is subsequently given at a higher level for a different reason, it shall be considered an initial negative recommendation for the purpose of formal reconsideration. When a negative recommendation is first made, the applicant shall be informed, in writing, of the right to request a formal reconsideration.

In order to exercise this right, the affected applicant must request the reconsideration in writing within ten University working days of receipt of notification of the negative recommendation. The request and any additional materials should be sent to the chair of the department/school committee or the person who made the initial negative recommendation. Upon receipt of the request for reconsideration, the chair of the department/school committee or the person who made the initial negative recommendation must send a copy of the request for reconsideration to the Office of the Provost and Executive Vice President for Academic Affairs for the purpose of resetting the review calendar for the applicant. The department/school committee or the person who made the initial negative recommendation shall complete the reconsideration within ten university working days of having received the request for reconsideration. The applicant and all participants of previous levels of review shall be notified, in writing, of the decision reached, and the letter of reconsideration with additional submitted material and the reconsideration decision will be forwarded along with the dossier to the individual responsible for the next level of review.

During the process of reconsideration, the calendar for the recommendation is extended, and the next level of recommendation shall not consider the applicant’s application until reconsideration is completed. Once the decision regarding formal reconsideration is reached, the process shall continue at the next level.

In the event of a reconsideration by the RPT committee, the procedures for the committee’s deliberations, voting, and reporting will be the same procedures as specified in Sections 3.2.5 and 3.2.6 of this Handbook.

Proposed Faculty Handbook revision (changes highlighted) – approved by the PCC on 3/23/2020

In the event the Provost makes a negative recommendation on an application for reappointment, promotion, tenure, or any combination of them, the applicant may appeal using the procedures set forth in Section 14, Grievances. The grievance must be initiated by the applicant within 15 university working days from receipt of the provost's notice.

#### 3.2.14. WITHDRAWAL OF APPEAL

~~A faculty member may withdraw an appeal at any time by request in writing. In that event, no further action may be taken concerning the appeal. In the case of denial of mandatory tenure, if an appeal from a negative recommendation or decision is withdrawn prior to a decision on the appeal, tenure cannot be recommended.~~

#### 3.2.15. TIME

~~Unless otherwise specified in these procedures, whenever any recommendation or notice is to be given or conveyed, it shall be given or conveyed within 15 university working days of receipt of the file by the person who is to take action.~~

**Commented [JF2]:** Struck as they appear to apply to the Grievance process outlined in a separate section of the Handbook.

### 7.3. POLICIES AND PROCEDURES

The policies and procedures for faculty presented in this Handbook apply to librarians as modified in this Section 7. Effective performance on the job replaces the teaching effectiveness category. The Steely Library and Chase Law Library are considered to be departments with regard to implementation of the reappointment, promotion, and tenure process. The ~~director~~ dean of the Steely Library serves as department chair for purposes of RPT. The ~~director-dean~~ of the Steely Library will forward reappointment, promotion, and tenure recommendations to the provost. The director of Chase Law Library serves in the functions of department chair and reports to the dean of the College of Law.