

SENATE ACTION FORM

No. 1153

Subject: University Regulations Article 8 – Amends Senate Action 1138

Reference to Senate Minutes dated: April 2, 2018

Senate Action:

MOTION: The Faculty Welfare Committee recommends amendments to Article 8 of the University Regulations to clarify intent and timelines of Sections 3-8-102 Research, Scholarship, and Creative Works Misconduct Policy (RSCW) and to realign the numbering and titles of Article 8. (see attachment-clean copy version)

VOTE: The motion passed unanimously by voice vote.

Response requested:

- Approval for placement in University Catalog
- X Approval for placement in University Regulations
- Recommendation to Board for placement in Board Policy Manual
- None (sent as information item)
- Other action requested/comments:

Francis R. Murry

Faculty Senate Chair

April 5, 2018

Date

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Administrative review of Senate action (unnecessary for information items):

- Reviewed by VPAA/Provost. Check if comments attached
- Reviewed by General Counsel. Check if comments attached

Presidential action:

- Approve Reject Return to Senate for discussion/modification (comments attached)

President/Designated Administrative Officer

Date

Date of Board approval (if applicable):

PLEASE RETURN SIGNED ORIGINAL AND ATTACHMENT TO THE FACULTY SENATE OFFICE, BOX 75.

Attachment to Senate Action Form #1153

Approved by the Faculty Senate

April 2, 2018

Article 8: Research; Research, Scholarship, and Creative Works (RSCW) Misconduct Policy; Academic Affairs Budget and FTE; and Honorary/Posthumous Degrees.

3-8-101 Research.

3-8-101(1) Obligations Regarding Research Subjects.

- (a) **Human Subjects.** It is the policy of the University that all research and research-related activities, in which humans are used as subjects, shall be subject to review under current Public Health Service regulations by an Institutional Review Board (IRB). The involvement of human subjects in research covered by this policy shall be prohibited until the IRB has reviewed and approved the research protocol. Current IRB procedures can be obtained directly from the Office of Research.
- (b) **Non-Human Animal Subjects.** It is the policy of the University that every research, testing, and teaching projects conducted by or at the request of any UNC researcher that involves the use of live, vertebrate animals must be reviewed under current Public Health Service and U.S. Department of Agriculture regulations by an Institutional Animal Care and Use Committee (IACUC). The involvement of animal subjects in research, testing, or teaching covered by this policy shall be prohibited until the IACUC has reviewed and approved an animal use protocol. The IACUC and the Principal Investigator (PI) responsible for the approved protocol share the responsibility for the ethical decisions made regarding the care and use of animals. However, the PI assumes the primary responsibility to ultimately assure the fulfillment of the institutional commitment to the ethical and humane treatment of live, vertebrate animals. Current IACUC policies and procedures can be found on the Office of Research website.

3-8-101(2) Indirect Costs. The University will collect fully all indirect costs to which it is entitled. Policies and procedures are available from the Office of Sponsored Programs.

3-8-102 Research, Scholarship, and Creative Works (RSCW) Misconduct Policy.

3-8-102(1) Definitions. For purposes of this policy, the following terms are defined as stated below.

- (a) “Academic Researcher” - Any person (paid or non-paid) affiliated with the University conducting or collaborating in University Sponsored Research.
- (b) “Respondent(s)” – Any individual(s) accused of misconduct under this policy.
- (c) “Complainant(s)” – Any individual(s) who make(s) an allegation of misconduct under this policy.
- (d) “University Sponsored Research” - Research, scholarship, creative works (RSCW), or consulting which is conducted by an Academic Researcher in the name of or under the auspices of the University or which is supported by University resources or facilities.
- (e) “Conflict of Interest” - Any pecuniary interest or organizational affiliation held by an Academic Researcher and/or Research Integrity Officer which prohibits or precludes or is reasonably likely to prohibit or preclude the Academic Researcher from exercising independent judgment in the conduct of University Sponsored Research.
- (f) “Research, Scholarship, and Creative Works Misconduct (RSCW Misconduct)” – Any action of an Academic Researcher in the conduct of University Sponsored Research which constitutes: (1) willful, negligent or reckless practice in proposing, reviewing, or conducting RSCW, or in reporting or presenting the results of such RSCW, including without limitation, falsification, fabrication, or plagiarism; or misrepresentation or falsification of credentials, sponsorships, approvals or certifications; (2) material violation of applicable laws, regulations or procedures; (3) material violation of applicable ethical or professional standards of the Academic Researcher’s discipline or profession or of the teaching profession or, in the case of students, the discipline or profession relevant to the University Sponsored Research and/or in which the student is pursuing educational credentials; (4) willful, grossly negligent or

reckless misappropriation or misapplication of research funds (excepting minor deviations in research fund accounting which results in no personal gain or benefit to the Academic Researcher); or (5) an undisclosed Conflict of Interest.

- (g) "Research Integrity Officer (RIO)" - The RIO is the University official responsible for (1) assessing allegations of RSCW Misconduct to determine if they describe conduct within the definition of RSCW Misconduct and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of RSCW Misconduct may be identified; and (2) overseeing the inquiry and investigative processes and ensuring compliance of all parties with this policy in the conduct of inquiries and investigations of RSCW Misconduct. The RIO is the Assistant Vice President for Research, or a University official otherwise appointed in writing by the Chief Academic Officer (CAO). Should the RIO need to recuse him- or herself due to a real or perceived Conflict of Interest, the CAO will designate a substitute RIO for that case.
- (h) "Deciding Official (DO)" - The DO is the University official who makes final determination regarding allegations of RSCW Misconduct and any University administrative actions in response to such allegations. The DO will not be the same individual as the RIO and should have no direct prior involvement in the University's inquiry, investigation, or allegation assessment. The DO is the CAO, or a University official otherwise appointed in writing by the President of the University. Should the CAO need to recuse him- or herself due to a real or perceived conflict of interest, the President will designate a substitute DO for that case.

3-8-102(2) General Statement. Any individual who engages in an act or acts of RSCW Misconduct while engaged in University Sponsored Research shall be subject to discipline in accordance with this policy.

3-8-102(3) Confidentiality. The proceedings conducted under this policy shall be closed and confidential except to those involved in the proceedings.

- (a) Except as otherwise required by law, all documents produced in the course of these proceedings shall be available only to (i) those involved in these proceedings or any further disciplinary proceedings resulting therefrom, (ii) officials of the University with a need to know or who are authorized by the DO, and/or (iii) governmental officials as required by law, regulations or contract. Knowledge of the allegation, inquiry, investigation and/or its details shall be limited to University officials (such as the Department Chair/School Director/Program Area Coordinator and the dean(s) of the college(s) of the faculty member(s) accused of RSCW Misconduct) with a need to know, as determined by the RIO.
- (b) In order to provide due protections to the reputations of persons who make or are the subject of allegations of RSCW Misconduct, the RIO shall inform all parties at each stage, about the expectation of confidentiality to all aspects of the proceedings.

3-8-102(4) Allegations. Allegations of RSCW Misconduct shall be received and reviewed as follows:

- (a) Allegations of RSCW Misconduct will be reported to the RIO by any individual with knowledge of observed, suspected, or apparent violations of this policy. These allegations shall be filed with the Office of the RIO in writing and shall be signed by the Complainant(s) who has/have made the allegations. Signatures shall not be required if the Complainant requests anonymity and the RIO determines that anonymity will affect materially the University's compliance with its responsibilities under this policy and/or as required by law.
- (b) If the RIO suspects RSCW misconduct he/she shall file allegations of RSCW misconduct.
- (c) Upon receiving an allegation of misconduct, the RIO will assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of misconduct may be identified and if these criteria are met, an inquiry must be conducted.
- (d) If the RIO determines that these criteria are not met, he or she shall inform the Complainant(s), the Respondent(s), and the DO that an inquiry will not be initiated.

3-8-102(5) Inquiry. An inquiry regarding an allegation of RSCW Misconduct shall be initiated as follows:

- (a) Upon the determination by the RIO that the allegations are sufficiently credible and specific, an inquiry shall be conducted by the RIO or the RIO's designee.

- (b) The purpose of the inquiry shall be to determine whether there is sufficient evidence that supports the reasonable conclusion that a violation(s) of this policy has occurred.
- (c) At the time an inquiry is initiated, the RIO must notify in writing the Respondent(s), if known, who is/are alleged to have violated this policy and the Respondent's Department Chair/School Director/Program Area Coordinator, academic dean and the DO that an inquiry has been initiated. If the inquiry subsequently identifies additional Respondent(s), written notifications must be made as described in the immediate preceding sentence.
- (d) The RIO or his/her designee must make reasonable efforts to obtain information in the care, custody or control of the University not privileged as a matter of law that is needed to conduct the inquiry. The RIO or his/her designee shall interview the Complainant(s), the Respondent(s), and persons believed to have information relevant to the inquiry, and review relevant documents and materials, prior to concluding the inquiry.
- (e) The inquiry shall be completed no later than sixty (60) calendar days after the allegations of RSCW Misconduct are filed unless the RIO determines that, despite diligent efforts, the inquiry cannot properly be concluded during that time, in which case, the time limit shall be extended for no more than thirty (30) additional calendar days.
- (f) Upon completion of the inquiry, a written inquiry report shall be prepared and signed by the RIO which shall summarize the allegations, specify the findings made and conclusions reached, and state whether there is sufficient evidence that supports the reasonable conclusion that a violation(s) of this policy by the Respondent(s) has occurred.
- (g) The RIO will transmit the written inquiry report to the Respondent(s) and indicate that the report will be transmitted to the DO fifteen (15) calendar days after it is transmitted to the Respondent(s). If the Respondent(s) wish(es) to respond to the RIO's report, they must submit their response to the RIO within fifteen (15) calendar days from the transmission of the written inquiry report. The RIO will transmit the inquiry report to the DO together with any response(s) from the Respondent(s) received by the RIO within the period stated above.
- (h) The DO will review the written inquiry report and any response(s) by the Respondent(s) and determine whether an investigation is warranted. Any finding that an investigation is warranted must be made in writing by the DO to the RIO and the Respondent(s).
- (i) The outcome of the inquiry, the DO's written decision, and a copy of the written inquiry report shall be sent "Confidential" to the last known home address(es) of the Respondent(s) by certified mail, return receipt requested. The RIO will inform the Department Chair/School Director/Program Area Coordinator and the dean(s) of the college(s) of the Respondent(s) whether an investigation will be initiated under this policy.
- (j) If the DO determines that an investigation is warranted, the RIO will send a copy of the DO's decision and the written inquiry report to any funding agencies that supported the Respondent(s)' University Sponsored Research and/or other agencies as required by law, regulations or contract. Funding agencies, and/or other agencies, shall also be notified if the Respondent(s) have admitted that RSCW Misconduct has occurred, or for any reason other than a determination by the DO that an investigation is not warranted. Other agency notification requirements may apply at this or other stages within this policy. All pertinent regulations and/or contracts should be consulted. It is the responsibility of the RIO to meet compliance regarding agency notification.

3-8-102(6) Investigation. If, as a result of the inquiry, it is determined that an investigation is warranted, the investigation shall be conducted as follows:

- (a) The RIO shall, in consultation with the chair of the Faculty Senate and other University officials as appropriate under the circumstances presented by the allegations, appoint a committee to conduct the investigation of the allegations (Investigatory Committee (IC)). The IC shall consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and shall be composed of a minimum of three (3) individuals who have expertise relevant to the allegations under investigation and who are tenured University faculty members. The RIO will select the chairperson of the committee.

- (b) Upon the appointment of the IC, the RIO shall notify in writing the Respondent(s) of the allegations that will be investigated.
- (c) No later than thirty (30) calendar days after the DO's determination that an investigation is warranted, the RIO will convene the first meeting of the IC to review the written inquiry report, the DO's determination, the information gathered pursuant to Section 3-8-102(5)(d), and the procedures for the conduct of the investigation, including the confidentiality requirements, and the development of a plan by which the investigation will be conducted. Once these matters are completed, the appointed Chair of the IC shall assume the responsibility for conducting the investigation. The RIO is responsible for overseeing the investigative process and ensuring compliance of all parties with this policy in the conduct of the investigation, but shall not participate as a member of the IC. The IC chair shall keep the RIO informed of the progress of the committee. The RIO will provide administrative support to the investigatory committee throughout the investigation.
- (d) The IC shall have the authority to review all records and evidence needed to conduct the misconduct proceedings not privileged as a matter of law and may interview or require the attendance of any University employee or agent to provide testimony at any hearing conducted by the IC, unless on matters that are privileged as a matter of law.
- (e) The IC may engage in any reasonable fact finding processes which it deems appropriate in order to gather evidence relevant to the matter(s) under investigation, including without limitation, a fact finding hearing at which witnesses may appear in person or through written statements, as the IC may deem appropriate. At any fact finding hearing, members of the IC shall be allowed to question witnesses who appear in person and the Respondent(s) shall be allowed to ask questions of such witnesses within reasonable limitations established by the IC.
- (f) Prior to any appearance by the respondent(s), the IC shall disclose, no less than ten (10) calendar days in advance, the issues or charges under investigation, the evidence which has been gathered by the IC which is relevant to the issues or charges, and the nature of the further investigation to be conducted through the fact-finding hearing.
- (g) In addition to review of the information gathered pursuant to Section 3-8-102(5)(d), interviews should be conducted of the Complainant(s) and Respondent(s), as well as other individuals who may have information relevant to the investigation. Summaries of all interviews should be included, with all other documents gathered, in the file maintained by the IC.
- (h) The IC may, in its discretion, obtain the assistance of experts in the field of research under investigation or in other areas as deemed relevant to the investigation.
- (i) The IC shall complete its investigation and issue a written report no later than one hundred and twenty (120) calendar days after the meeting held pursuant to Section 3-8-102(6)(c), unless the investigation cannot be properly concluded in that time, in which case the time limit shall be extended for such period as is reasonably necessary to conclude the investigation, but no longer than an additional sixty (60) calendar days.
- (j) The IC's investigation report must be in writing and include:
 - (A) A description of the allegations of RSCW Misconduct that have been investigated;
 - (B) The identification and summary of the records and evidence reviewed, and the identification of any evidence gathered that was not reviewed;
 - (C) For each distinct allegation of RSCW Misconduct, a summary of the relevant evidence and a conclusion that contains an analysis as to whether RSCW Misconduct did or did not occur (with consideration of any reasonable explanation by the Respondent(s), including any admission of RSCW Misconduct by the Respondent(s)), and if so-
 - (1) Identify whether the RSCW Misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
 - (2) Describe and document the external support, including, e.g., any grant numbers, grant applications, contracts, and publication listing external support;

- (3) Identify any publications and/or other RSCW dissemination that the IC has concluded need correction or retraction; and
- (4) Identify the Respondent(s) responsible for the RSCW Misconduct.
- (k) The Respondent(s) shall receive, via Registered Mail, the initial report of the IC and shall be given fifteen (15) calendar days from the date of receipt to respond to the report, if they wish to do so. At the end of the fifteen (15) calendar day period, the initial report, with any response by the Respondent(s) will be filed with the DO.
- (l) The DO, within thirty (30) calendar days of receipt of the initial report and any Respondent(s) response, will communicate, in writing, to the Respondent(s), Complainant(s), the IC Chair, the Department Chair/School Director/Program Area Coordinator and the dean(s) of college(s) of the Respondent(s), and the RIO, the final decision of the DO of whether or not RSCW Misconduct has occurred and the University actions to be taken.
- (m) The RIO shall send the DO's final decision, including the IC's initial report and any response(s) of the Respondent(s) to any funding agencies that supported the Academic Researcher's University Sponsored Research as required by law, regulations or contract.

3-8-102(7) Discipline. Any University policy to the contrary notwithstanding, violation of this policy shall be cause for discipline, and sanctions of written and oral reprimand, prohibition from involvement in any University Sponsored Research, temporarily or permanently, suspension or dismissal as well as any other sanctions allowed by University policies or regulations or applicable law. Disciplinary proceedings shall be governed by established University procedures.

3-8-102(8) Retention of Records. All reports and all records gathered regarding any allegations, inquiry, or investigation under this policy shall be maintained by the Office of the RIO for no less than seven (7) years after completion of all proceedings under this policy.

3-8-102(9) Further Reporting. If at any time during any proceedings hereunder it is determined that criminal activity may have occurred or that federal funds are in jeopardy of loss or misappropriation, immediate notice shall be given to any federal funding agency which has provided the funds and to appropriate law enforcement agencies. In such instance, the RIO shall take appropriate action to sequester such funds to prevent their loss or misappropriation.

3-8-103 Academic Affairs Budget and FTE.

3-8-103(1) Budget and FTE Allocations.

(a) Vice Presidential level:

- (I) FTE and dollar allocations will be made by the Vice President for Academic Affairs to each dean.
- (II) FTE and dollar allocations will be made so as to implement planning priorities established during the University planning process.
- (III) The FTE and dollars allocated to the deans may not exceed the allocations to the Vice President from the President. The Vice President may establish a contingency pool of FTE position and/or dollars.
- (IV) Allocations of FTE or dollars to a dean may include specific guidelines relative to the assignment of any or all of the FTE of dollars allocated to a dean. Individual positions may be identified explicitly by the Vice President for an FTE allocation or no GRE allocation.
- (V) The FTE/dollar allocation from the Vice President may be for the fiscal year or for any portion of the fiscal year (e.g. a summer FTE allocation may be made prior to the fiscal year allocation).

(b) Dean level:

- (I) As soon as practicable after receiving an FTE and/or dollar allocation from the Vice President, the dean will make an allocation to department chairs/school directors/program area coordinators.
- (II) Tenure track positions allocated to departments/schools/program areas should be consistent with the 80% tenured plans of the college and department/school/program area.

(III) FTE and dollar allocations to departments/schools/program areas should be made so as to carry out the planning priorities of the college and department/school/program area.

(IV) FTE allocated to T.A. positions within any given department/school/program **area** may not be reduced from year to year without the approval of the dean and the Vice President.

(V) The dean may include specific guidelines relative to the assignment of any or all of the FTE or dollars allocated to a department/school/program area. Specific FTE and dollar guidelines from the Vice President will be included by the dean in the dean's guidelines to a department/school/program area.

(VI) FTE and dollar allocations from the dean may be for the fiscal year or for any portion of the fiscal year (e.g. summer only).

(VII) FTE and dollars allocated to departments/schools/program areas may not exceed the FTE and dollars allocated to the dean by the Vice President. The dean may, however, establish a contingency pool of FTE and/or dollars.

(VIII) Without approval of the Vice President, and the dean, a department/school/program area may not "lock in" its allocated FTE by assigning all FTE to tenure track and multiple year positions, even when the positions are within the 80% tenured plan of the department/school/program area and college.

(IX) FTE assigned to positions which become vacant during the year may be reassigned, at the discretion of the dean, within the college, provided the dollars to fund the position are not recalled by the Vice President.

(c) Department **Chair**/School Director/Program Area Coordinator level.

(I) FTE and dollars allocated to departments/schools/program areas may be assigned by the department chair/school director/program area coordinator to staff the needs of the department/school/program area, but assignments must be consistent with guidelines established by the dean. Tenure track positions, assignments from hiring pools, or assignments of T.A.'s etc., must conform to University hiring procedures for those positions.

(II) T.A. positions may not be reduced in any department/school/program area from one year to the next without the approval of the dean and the Vice President.

(III) FTE allocations at the dean and departmental/school/program area levels do not guarantee funding for the FTE allocated. FTE must be funded through the budget allocation to the dean or department/school/program area. Departments/schools/program areas with unassigned FTE may request authorization from the dean to advertise positions, even though they may only have tentative expectations that they will be funded. Positions tentatively approved and authorized for advertising must contain a contingency statement that allows the University to withdraw a position that is not ultimately funded. Positions for which no FTE allocations have been made may not be advertised.

(IV) Without approval of the dean and the Vice President, a department/school/program area may not lock in its FTE by assigning all FTE to tenure track and multiple year term positions, even when the positions are within the 80% tenured plan of the college.

(V) When a dean signs a position authorization form for a departmental/school/program area request to fill a position, the dean should indicate to the department/school/program area the funding priority of the position (i.e., the conditions necessary for the position to be funded).

(VI) Budget allocations to departments/schools/program areas must be managed by the chair according to University and college fiscal policies.

3-8-104 Criteria and Procedures for Selection and Awarding Honorary and Posthumous Degrees.

3-8-104(1) Honorary. The purpose of honorary degrees is to recognize distinguished individuals whose recognition also brings honor upon the University of Northern Colorado. Criteria and procedures are available from the Graduate School.

3-8-104(2) Posthumous. Students who die during the final semester of their academic programs may be awarded posthumous degrees.

(1) The request to award a posthumous degree may be initiated by the decedent's family, major department/school/program area, or college, as well as by the Dean of Students.

(2) The Dean of Students, in consultation with the Registrar and, when appropriate, the Dean of the Graduate School and/or the decedent's department/school/program area, or college, shall determine whether the following two conditions have been met:

(a) The student would have been eligible to graduate at the end of the semester or term, assuming satisfactory completion of enrolled course work and any additional degree requirements. Academic performance during the semester or term, however, will not be scrutinized or evaluated.

(b) At the time of death, there were no outstanding criminal charges or violations of the Student Code of Conduct against the student, nor did the student die in the commission of a criminal act or violation of the Student Code of Conduct.

(c) If the parties named in the first sentence of (2) above determine that there are extenuating circumstances, then the student shall be considered eligible for a posthumous degree.

(3) Upon determination that the student is eligible for a posthumous degree, the Dean of Students shall contact the decedent's family to determine whether the family approves of the posthumous degree award.

(4) Upon approval from the family, the Dean of Students shall communicate approval to the Registrar, who will withdraw the student from all registered course work, order the appropriate diploma, and arrange for the decedent's listing in the commencement program. If by this point it is no longer possible for the Registrar to execute these tasks in time for the forthcoming commencement, the posthumous degree shall be awarded at the next commencement.

(5) The Registrar shall send notice of the posthumous degree award to the President, the Provost, and the decedent's major department/school/program area, and college.

(6) The President shall write a letter to the decedent's family announcing the posthumous degree award and the date of the commencement ceremony at which the degree will be granted.