



Ohio Administrative Code

Rule 3335-5-04.2 Procedures for complaints of research misconduct made against faculty members.

Effective: April 2, 2021

(A) This rule applies to complaints involving research misconduct made against faculty members. A faculty member may be disciplined up to and including termination for violations established under this rule. Research misconduct is defined in rule 3335-13-08 of the Administration Code and the research misconduct policy.

(B) Preliminary assessment and inquiry.

(1) Complaints alleging research misconduct must be filed with or referred to the office of research.

(2) The office of research shall ensure that a preliminary assessment is performed in accordance with the research misconduct policy to determine whether the complaint alleges research misconduct as defined in the policy and is sufficiently credible and specific so that research misconduct may be identified.

(3) If the preliminary assessment concludes that the allegations in the complaint meet the definition of research misconduct and are sufficiently credible and specific so that potential evidence of research misconduct may be identified, the office of research shall proceed to an inquiry review in accordance with the research misconduct policy to determine whether the allegations have sufficient substance to warrant an investigation.

(4) If the inquiry concludes that the allegations have sufficient substance and that an investigation is warranted in accordance with the research misconduct policy, an investigation shall be initiated as set forth in section (C) of this rule. All other procedural steps, including but not limited to appeals, shall be performed in accordance with the research misconduct policy.

(5) In both the preliminary assessment and inquiry steps, complainants and respondents shall be afforded procedural rights, including but not limited to the rights to review documentary evidence, submit evidence, be accompanied by an advisor, review and file a written response to reports, and



make appeals, as specifically defined in the research misconduct policy.

(C) Investigation and sanctioning.

(1) If a complaint is referred for investigation, the office of research shall convene an investigation and sanctioning committee consisting of a minimum of three voting members from the research integrity standing committee in accordance with the research misconduct policy.

(2) The committee shall examine all the documentation and conduct formal interviews, when possible, of the respondent, the complainant, and others who may have information relevant to the complaint, but shall strive to maintain the confidentiality of the proceedings.

(3) The respondent shall be given copies of any documentary evidence provided to the committee as part of the investigation and be given an opportunity to respond to all such documentation.

(4) At the conclusion of the investigation, the committee shall prepare a preliminary report in accordance with this rule and the research misconduct policy. Findings and conclusions shall be based on the preponderance of the evidence standard. The respondent shall have fourteen days to respond and to identify any alleged errors or omissions in the preliminary report.

(5) In evaluating sanctions, the committee shall consider the totality of the circumstances, including aggravating and mitigating factors.

(a) Aggravating factors may include, but are not limited to:

(i) the degree to which the respondent's conduct was flagrant, egregious, or willful;

(ii) the significance and impact of the faculty member's failure to meet academic responsibilities if relevant;

(iii) the strength of the evidence presented;

(iv) whether the respondent has previously been found to have engaged in misconduct;



(v) whether the respondent's conduct caused injury or harm to another individual, university property, or the university's reputation; and

(vi) whether the respondent had received prior warnings about engaging in the conduct at issue.

(b) Mitigating factors may include, but are not limited to:

(i) the conduct at issue did not cause injury or harm to another individual, university property, or the university's reputation; and

(ii) the respondent accepted responsibility for the misconduct.

(6) The committee shall have the authority to recommend sanctions as it sees fit as long as the sanctions are commensurate with the nature of the complaint and the committee's analysis of any aggravating and mitigating factors. Sanctions may be of a discrete or continuing nature, but sanctions of a continuing nature must specify the period of time in which they are applicable. Sanctions may include, but are not limited to the following, and may include a combination of sanctions:

(a) Verbal reprimand;

(b) Written reprimand;

(c) Mandatory counseling or other rehabilitation;

(d) Reimbursement for damages to or destruction of university property, or for misuse or misappropriation of university property, services or funds;

(e) Restrictions on duties or privileges;

(f) Restriction of access to university property or services;

(g) Reduction of salary base;



(h) Reduction of twelve-month appointment to nine-month appointment;

(i) Reduction of full-time equivalent (FTE) appointment;

(j) Reduction of rank;

(k) Revocation of tenure;

(l) Termination of employment.

(7) After receipt of any comments from the respondent, the committee shall complete its investigation and submit its final report to the deciding official set forth in the research misconduct policy in accordance with that policy. If the committee concludes that research misconduct occurred, the respondent shall have the right to submit an appeal of that decision to the deciding official in accordance with the research misconduct policy.

(a) If a finding of research misconduct is confirmed following review of the report and any appeals by the deciding official, the case shall be referred to the respondent's dean for further proceedings under section (D) of this rule. If no finding of research misconduct is made following such review, the case shall be dismissed.

(D) Decision by the dean.

(1) After reviewing the report and recommendation of the investigation and sanctioning committee, the dean may:

(a) Uphold the committee's proposed sanction;

(b) Impose what would reasonably be interpreted as an equivalent or lesser sanction; or

(c) Increase the sanction.



(2) The dean shall make a decision in twenty-one days. The final report of the investigation and sanctioning committee and the dean's decision shall be sent to the complainant, if any identified, and the respondent.

(3) Appeals:

(a) The dean's decision shall be final in all cases in which the sanction imposed is a verbal reprimand, a written reprimand, or mandatory counseling or training.

(b) If the dean imposes any other sanction except for revocation of tenure or termination of employment, the respondent shall have the right to appeal in writing to the provost for review.

(c) If the dean imposes a sanction that revokes tenure or terminates employment, the matter shall be automatically appealed to the provost.

(d) In all appeals, whether discretionary or automatic, the respondent may identify their position on the case in writing to the provost. All such submissions and all discretionary appeals must be filed within fourteen days after notice of the dean's decision was mailed.

(E) Review of appeals by the provost.

(1) After reviewing the record of a case appealed by a respondent or referred by the dean, the provost may:

(a) Affirm the dean's sanction;

(b) Impose what would reasonably be interpreted as an equivalent or lesser sanction to the dean's sanction;

(c) Increase the sanction; or

(d) In the event that the provost determines that substantial new evidence exists (evidence that was not available at the time of the initial investigation and that may reasonably have affected the finding



of misconduct) or there was conflict of interest or procedural error in the previous steps of the process that resulted in material harm or prejudice to the respondent, the provost shall return the case back to a previous step of the process for further proceedings as appropriate.

(2) The provost shall make a decision within fourteen days of receiving materials from the dean and respondent as applicable.

(3) If the provost affirms the dean's decision to terminate employment, or imposes or upholds a sanction set forth in section (C)(6)(vii) to (xii) of this rule, the respondent may appeal to the faculty hearing committee. In all other cases, the provost's decision shall be final.

(4) An appeal by the respondent must be in writing and must be filed with the faculty hearing committee within fourteen days after notice of the provost's decision was mailed. Appeals to the faculty hearing committee shall be limited to one or more of the following grounds:

(a) The sanction is disproportionate to the violations committed in view of the aggravating and mitigating factors;

(b) Substantial new evidence has been discovered (evidence that was not available at the time of the initial investigation and that may reasonably have affected the finding of misconduct); or

(c) There was conflict of interest or procedural error in the previous steps of the process that resulted in material harm or prejudice to the respondent.

(F) The faculty hearing committee.

(1) Within fourteen days of receipt of an appeal from a respondent the faculty hearing committee established by rule 3335-5-48.10 of the Administration Code shall convene a hearing panel to consider the complaint and to provide a recommendation to the president regarding the appropriate action to be imposed. The respondent and the provost or designee may each make one peremptory challenge to the seating of one person on the hearing panel and one peremptory challenge to the selection of a presiding officer.



- (2) The parties to this hearing shall be the respondent and the provost, or designee.
- (3) The hearing panel may restrict the attendance of persons at the proceedings. However, the respondent and the provost shall have the right to have one observer of their choosing present at all times.
- (4) The provost, or designee, shall present the case to the hearing panel. In presenting the case, the provost may be advised and represented by the general counsel, or designee. The provost shall have the right to present witnesses and evidence and to examine witnesses and evidence presented by the respondent.
- (5) Respondents shall have the right to represent themselves or to be represented by legal counsel or any other person of their choice. The respondent shall have the right to examine the witnesses and evidence presented against them in the hearing, to present witnesses and evidence on their own behalf, and to refuse to testify or be questioned in the proceedings without prejudice to their cause.
- (6) The hearing panel shall receive testimony and other evidence as it deems relevant and material to the issues appealed, and may decline to receive evidence presented by the provost or the respondent that is not material and relevant to the appeal.
- (7) An electronic recording shall be kept of all proceedings at a hearing panel. The recording shall be conveyed by the chair of the faculty hearing committee to the office of academic affairs.
- (8) At the conclusion of the proceedings, the hearing panel shall make separate written conclusions with respect to each substantive issue raised at the hearing.
 - (a) If the respondent challenges the appropriateness of the sanction, the faculty hearing committee shall set forth what their recommended sanction is in accordance with the factors set forth in section (C)(5) of this rule.
 - (b) If the respondent alleges conflict of interest, procedural error, or substantial new evidence, the faculty hearing committee shall set forth what their conclusions are and whether they believe that further proceedings are appropriate.



(9) The faculty hearing committee's report, together with a recording of the proceedings, shall be transmitted to the president, provost, and respondent within sixty days of the date that the final hearing panel is convened.

(G) The president.

(1) Upon receipt of the written recommendation and a record of the proceedings from a hearing panel, the president shall review the matter. The president may:

(a) Impose any sanction less than termination of employment whether or not it accords with the recommendation of the hearing panel;

(b) Recommend to the board of trustees termination of employment on such terms and conditions as the president may deem advisable;

(c) Remand the case to the hearing panel for reconsideration; or

(d) In the event that the president determines that substantial new evidence exists (evidence that was not available at the time of the initial investigation and that may reasonably have affected the finding of misconduct) or there was conflict of interest or procedural error in the previous steps of the process that resulted in material harm or prejudice to the respondent, the president shall return the case back to a previous step of the process for further proceedings as appropriate.

(2) The president's decision on all sanctions less than termination of employment is final.

(3) Any decision of the president shall be communicated in writing to the hearing panel, the provost, and the respondent.

(4) The president shall make a decision within thirty days.

(H) Board of trustees.



(1) The board of trustees, in reviewing and deciding upon a case in which termination of employment has been recommended, has the ultimate authority to take that action necessary to promote the best interest of the university and to protect the rights of the individual. In such cases, the board shall have the discretion to decide whether the respondent has an opportunity to present to it arguments in writing, or in person, or both.