

**EAST CAROLINA UNIVERSITY
2012-2013 FACULTY SENATE**

The eighth regular meeting of the 2012/2013 Faculty Senate will be held on **Tuesday, April 16, 2013**, at 2:10 pm in the Mendenhall Student Center, Great Room.

REVISED FULL AGENDA

(Revised committee reports are highlighted below.)

I. Call to Order

II. Approval of Minutes

March 19, 2013

III. Special Order of the Day

A. Roll Call

B. Announcements

C. Steve Ballard, Chancellor

D. Ron Mitchelson, Interim Vice Chancellor for Research and Graduate Studies

E. Mark Sprague, Chair of the Faculty

F. Catherine Rigsby, UNC Faculty Assembly Chairperson

G. Question Period

IV. Unfinished Business

V. Report of Graduate Council

1. Formal faculty advice on curriculum and academic matters contained in the April 1, 2013 Graduate Council meeting minutes, including three sets of Graduate Curriculum Committee minutes, memo corresponding to the March 6, 2013 GCC minutes, update from ad hoc committee on thesis and dissertation approvals, four documents presenting information relevant to the discussion on plus/minus grading and request for a time extension by a PhD candidate.
2. Formal faculty advice on curriculum and academic matters contained in the February 20, 2013, March 6, 2013, and March 20, 2013 Graduate Curriculum Committee meeting minutes, including items within the Departments of Mathematics, Anthropology, Child Development and Family Relations, and Biology; Colleges of Education, Allied Health Sciences, Health and Human Performance, and Business; and Schools of Social Work, Medicine, and Communication.

VI. Report of Committees

- A. **Educational Policies and Planning Committee**, Ed Stellwag
1. Curriculum and academic program matters included in the [March 18, 2013](#) meeting minutes, including: Request to [discontinue the MS degree in Recreational Therapy Administration](#); [Request to discontinue the BA in Women's Studies](#); and Academic Program Reviews of [Educational Leadership and Higher, Adult, and Counselor Education](#) within the College of Education.
 2. Curriculum and academic program matters included in the [April 12, 2013](#) meeting minutes including a Request for Permission to Plan MA in [Communication Studies/Speech Communication and Rhetoric distance education degree program](#); Notification of Intent to Plan [MAEd Elementary Education distance education degree program](#); Notification of Intent to Plan [MAEd Middle Grades Education distance education degree program](#); Request for Permission to Plan a [Master of Community Planning Degree](#); Request to discontinue MA Social Work distance education sites in Elizabeth City and Wilmington; Request to change the name of the Technical and Professional Discourse PhD program within the Department of English to [Rhetoric, Writing, and Professional Communication](#); Request to change the name of the General-Theoretic Master's Program within the Department of Psychology to [Master's in Industrial and Organizational Psychology](#).
 3. Request for Authorization to Establish a [Bachelor of Science in University Studies](#); Notification of Intent to [Plan a Bachelor of Science in University Studies distance education degree program](#); and Request for Authorization to [Establish a Bachelor of Science in University Studies distance education degree program](#).
- B. **University Budget Committee**, John Given
Informational report on budget.
- C. **University Environment Committee**, Brian Glover
Resolution on Support of Efforts to Control Storm Water Runoff (attachment 1).
- D. **Writing Across the Curriculum Committee**, Hector Garza
Curriculum and academic matters contained in meeting minutes of [April 8, 2013](#), which include removal of writing intensive designation (WI) from some sections of [HLTH 3030: Health Behavior](#) and [ENGR 2070: Materials and Processes](#).
- E. **University Curriculum Committee**, Donna Kain
Curriculum and academic matters contained in meeting minutes of [February 28, 2013](#), [March 21, 2013](#), and [March 28, 2013](#) which include curricular actions within Departments of Interior Design and Merchandising, English, Child Development and Family Relations, Foreign Languages and Literatures, Sociology, and Mathematics; Schools of Social Work, Communication, and Music; Colleges of Allied Health Sciences, Business, Health and Human Performance, and Nursing; and discussion on 5000-level courses standard operating procedure.

- F. Foundations Curriculum and Instructional Effectiveness Committee, Mike Brown
1. Proposed revisions to the *University Undergraduate Catalog*, Section: Undergraduate Studies: Academic Advisement, Progression and Support Services, Subsection: Student Progression in reference to Liberal Arts Foundations Program (attachment 2).
 2. Domestic and Global Diversity Course Approvals for CDFR 4303: Families and Cultural Diversity, HLTH 3002: Women's Health Across the Lifespan, EDUC 3002: Introduction to Diversity.
 3. Update on Student Perception of Teaching Survey (SPOTS) training.
 4. Update on Transfer Students and NCCC Articulation Agreement on General Education.

G. **Faculty Welfare Committee**, Rachel Roper
Report on Proposed University Policy on Drug Abuse (For Information Only) (attachment 3).

H. **Faculty Governance Committee**, Marianna Walker
Additional Proposed Revisions to the *ECU Faculty Manual*, Part VII, Faculty Research and Scholarship, Section III. Regulation on Research Conduct (attachment 4).

I. **Research/Creative Activity Grants Committee**, Britt Theurer
Formal faculty advice on proposed ECU Copyright Regulation (attachment 5).

J. **Service Learning Committee**, Kylie Dotson-Blake
Curriculum matters contained in the [April 9, 2013](#) meeting minutes, including service learning designation for [NURS 4210](#): Nursing Care of Populations and Communities and [COAD 1000](#): Student Development and Learning in Higher Education (Maynard Scholar and Education Housing Community Sections).

VII. New Business

UNIVERSITY ENVIRONMENT COMMITTEE REPORT
Support of Efforts to Control Storm Water Runoff

WHEREAS, East Carolina University's mission statement enjoins it "to serve as a national model for public service and regional transformation by [...] creating a strong, sustainable future for eastern North Carolina through education, research, innovation, investment, and outreach"; and

WHEREAS, throughout its history our region has been defined by its waterways, which are essential to the health of its people and the vitality of its economy; and

WHEREAS, at the current time, many streams and rivers around our campus, including Green Mill Run and the Tar River, have been significantly degraded by poorly controlled storm water runoff from a variety of locations throughout their watersheds, particularly in high-density urban areas with expansive impervious cover (roads, buildings, sidewalks, parking lots, etc.) in the City of Greenville; and

WHEREAS, more effective storm water management, by reducing or treating runoff and pollutants, can improve water quality, conserve and improve aquatic habitat, reduce erosion, and reduce flood risk; and

WHEREAS, improving water quality and aquatic habitat will preserve and improve the value of our natural resources for the future; and

WHEREAS, better management of storm water runoff entering Green Mill Run will provide a service to ECU's surrounding community, reduce downstream flood risk and erosion, insulate property values adjacent to Green Mill Run, decrease the risk of property loss or damage, and reduce exposure risk for utility infrastructure crossing under Green Mill Run; and

WHEREAS, these efforts would provide examples of modern storm water management for student education and research, and would serve as public education and awareness tools for understanding impacts from urban storm water runoff and demonstrating proper management techniques; and

WHEREAS, as Eastern North Carolina's foremost research institution, ECU must lead the region to improve and maintain the health and function of our waterways; and

WHEREAS, ECU has prominently and consistently recognized its need for improved storm water management facilities in its 2012 Comprehensive Master Plan (pages 37, 54, 63, 84, 112, 136, 182, 199, 250, 252-3, 267, 268); and

WHEREAS, the University has already made significant progress on storm water management in recent projects, including the 14th Street parking lot, Coastal Studies Institute in Manteo, The Croatan, Ross Hall Dental School, and North Recreational Complex;

THEREFORE BE IT RESOLVED, that the University Environment Committee asks that the Faculty Senate and Chancellor support the following principles to guide University administration whenever applicable:

1. In all new University construction projects, storm water runoff should be captured and treated using Best Management Practices.
2. The University should make it a high priority to retrofit existing facilities using Best Management Practices.
3. In planning storm water treatment projects, all campus stakeholders should be included: Campus Operations, Parking and Transportation, Administration and Finance, Faculty Senate, and Student Government Association.

Faculty Senate Agenda
April 16, 2013
Attachment 2.

FOUNDATIONS CURRICULUM AND INSTRUCTIONAL EFFECTIVENESS COMMITTEE REPORT

Proposed Revisions to the *University Undergraduate Catalog*, Section Undergraduate Studies:
Academic Advisement, Progression and Support Services, Subsection Student Progression

(Deletions are noted in ~~strikethrough~~ and additions in **bold**)

Liberal Arts Foundations Program

~~The Liberal Arts Foundations program consists of the freshman and sophomore level courses that satisfy the requirements in foundations curriculum for baccalaureate degrees. In some majors, notably music, art, and the sciences, sequence course work which must be taken in the freshman and sophomore years requires that some Liberal Arts Foundations requirements be postponed until the junior year. Suggested course sequences and other advising information may be found at www.ecu.edu/advising.~~

~~The Goals of the Liberal Arts Foundations Curriculum~~

The overarching goal of the Liberal Arts Foundations curriculum is to provide students with the fundamental knowledge and abilities essential to their living worthwhile lives both private and public. The curriculum is based on the faculty's belief that the best way to prepare students for living worthwhile lives is to provide them with a solid foundation in the core disciplines in the liberal arts (the humanities, arts, natural sciences, and social sciences), in conjunction with a multidisciplinary education in the specific areas of health promotion and physical activity and mastery of writing and mathematics competencies. The foundations curriculum provides a common, unified knowledge and skills base to students who will major in different subjects and who come from diverse cultural backgrounds. Foundations courses give students the shared knowledge and abilities necessary to integrate their foundational education with their major. Taken from the perspective of students' personal, private interests, this foundation and its integration with specialized learning in the students' majors enables students to live broadly informed, responsible, worthwhile lives. From the public perspective, this integration is essential to good citizenship in an increasingly global yet culturally diverse and conflicted world.

Fundamental Goal Areas

The foundations curriculum is divided into four basic, core disciplinary areas (humanities, arts, natural sciences, social sciences), one multidisciplinary area in health promotion and physical activity, and two areas of competence: writing and mathematics.

All foundations courses in the core liberal arts disciplines must meet the three fundamental goals of a foundational liberal arts education:

- Students must learn the subject matter of one or more of the disciplines in each of the four core areas (humanities, arts, sciences, and social sciences).
- Students must learn the fundamental concepts and research methods utilized in one or more of the disciplines in each core area.
- Students must learn the relevance of scholarship in the discipline and in its core area to the student's overall education.

All courses in the required multidisciplinary area (health promotion and physical activity) and competency areas (writing and mathematics) must meet the goals specific to each of these areas.

Goals for the humanities, arts, sciences, social sciences, health promotion and physical activity, writing, and mathematics are available at www.ecu.edu/cs-acad/fsonline/as/liberalartsfoundation.cfm.

Courses that Carry **Liberal Arts** Foundations Curriculum (FC) Credit

Many Courses that carry foundations curriculum credit are identified in the course listings using the FC designation. ~~; however, there may be other courses that also carry foundations curriculum credit.~~ Many majors have specific foundation course requirements ~~(see requirements under specific major listing in section).~~ **and** ~~S~~students should check **the requirements** for their intended **major degree requirements** prior to selecting foundation courses. For example, some majors may require specific science, math, social science, fine arts, and/or humanities courses. Courses in the student's major prefix area may not count toward foundations curriculum requirements.

English 1100, 1200 (FC:EN) - 6 semester hours

Health (FC:HL) and Exercise and Sport Science (FC:EX) - 3 semester hours

~~(Select at least one course with the FC:HL designation and one course with the FC:EX designation in each area.)~~

Humanities (FC:HU) and Fine Arts (FC:FA) - 10 semester hours

~~(FC:HU) (FC:FA)~~

Select at least one course in humanities **with the FC:HU designation** and one course in fine arts **with the FC:FA designation** from the following areas:

Humanities (FC:HU)

Literature (English or American)

Literature in a foreign language or in translation (See Departments of English and Foreign Languages and Literatures. Foreign languages 1001-1004 will not meet this requirement.)

Philosophy

Religious Studies

Selected Linguistics Courses (**ENGL 2740, 3750 only**)

Fine Arts (FC:FA)

Art

Communication (~~selected courses~~ **COMM 2020, 2410, 2420 only**)

Dance

English (ENGL 2815 only)

Music
Theatre Arts

● Mathematics (FC:MA) - 3 semester hours

Three hours of mathematics **with the FC:MA designation** that is at least equivalent to MATH 1050 (~~not for some teacher education majors, consult advisor~~) or 1065 or 1066 or three hours of logic at least equivalent to PHIL 1500 (If logic is used to satisfy this requirement, it may not be used to satisfy the humanities requirement for the baccalaureate degree.) **Many majors have specific mathematics course requirements and students should check the requirements for their intended major degree requirements prior to selecting mathematics courses.**

Science (FC:SC) - 8 semester hours

At least one course must require laboratory work. Select one or more courses **with the FC:SC designation** from the following departments:

Anthropology (ANTH 2015, 2016 **only**)

Biology

Chemistry

Geography (GEOG 1300 **only**)

Geology

Physics

Social Sciences (FC:SO) - 12 semester hours

Select courses **with the FC:SO designation** from at least three of the following areas:

Anthropology

● Communication (**COMM 1001, 3152, 3172, 3390 only**)

Economics

Geography

History

Political Science

Psychology

Recreation and Leisure Studies (RCLS 2601 only)

Sociology

Certain honors and interdisciplinary courses (for example, **HNRS**, CDFR, ETHN, INTL, ~~RCLS~~, RUSI, and WOST) **with the FC designation** may be used to satisfy foundations curriculum requirements. For specific courses ~~used to~~ that meet the foundations curriculum requirements see **course listings Section 9**.

FACULTY WELFARE COMMITTEE REPORT
Report on Proposed University Policy on Drug Abuse

For Information Only

Earlier this month the Faculty Welfare Committee was given a proposed University Policy on Drug Abuse and asked to review it and provide formal faculty advice to the Faculty Senate less than two weeks later (during the Senate's last regular meeting of the academic year). The new policy, requested by the Board of Trustees for students, was drafted by staff within the Student Affairs Division. While an attempt was made by Student Affairs to restate the Board of Governors policy on drugs, members of the Committee expressed numerous serious questions regarding the proposed University Policy and agreed to consult with ECU lawyers and administration to clarify portions of the policy and obtain further information prior to providing formal faculty advice to the Faculty Senate.

Some examples requiring further clarification include:

- Section 3 references substance abuse programs. The policy fails to address what will be kept confidential for faculty voluntarily seeking substance abuse program.
- Section 4.4.1 should be clarified, which states in part, "Any member of the university community who violates that law is subject to ...disciplinary proceedings by the university."
- Section 4.4.1.1 states in part, "For the illegal manufacture, sale, delivery... any faculty member... may be discharged." It does not describe the process or state who would make such determinations.
- The current appellate due process procedures for faculty are not referenced in this proposed University policy.
- It is unclear how the proposed policy would affect students' activity in their private residence off campus.

While the Committee understands that there is some urgency in implementing this proposed University policy for students, the Committee asks for more time to adequately review the policy prior to reporting to the Faculty Senate. At present, the issue of illegal drug use by faculty is covered in the *ECU Faculty Manual*, Part XI General Faculty Employment Guidelines and Benefits, Section VI. Substance Abuse and Weapons Policies which states:

"A. Substance Abuse Policy

The highest standards of personal and professional conduct must be maintained by faculty, staff, and students. Illegal or abusive use of drugs or alcohol, referred to in this policy as substance abuse, by members of the university community adversely affects the mission of the university and is prohibited. A substance abuse policy adopted by the East Carolina University Board of Trustees, consistent with the UNC Board of Governors' Policy on Illegal Drugs, is intended to: prevent substance abuse through a strong educational effort; encourage and facilitate the use of counseling services and rehabilitation programs by those members of the university community who require their assistance in stopping illegal or abusive use of drugs or alcohol; and discipline appropriately those members of the university community who engage in illegal drug or alcohol related behaviors.

The UNC Board of Governor's Policy on Illegal Drugs (Chapter 1300.1) is located at <http://www.northcarolina.edu/policy/index.php>. (FS Resolution #10-97, December 2010)"

DRAFT

Proposed University Policy on Drug Abuse

Authority: Board of Trustees

History: Adopted July 15, 1988, Amended October 1990;

Related Policies: UNC Policy Manual 1300.1

Contact for Info: Vice Chancellor for Student Affairs, Director for Employee Relations, 328-9885;

-
1. Introduction. East Carolina University is dedicated to the pursuit and dissemination of knowledge and as such, expects members of the academic community to behave in a manner conducive to that end. The highest standards of personal and professional conduct must be maintained by faculty, staff, and students. Illegal or abusive use of drugs by members of the university community adversely affects the mission of the university and is prohibited. The East Carolina University Board of Trustees adopts the following policy consistent with the UNC Board of Governors' Policy on Illegal Drugs. The policy is intended to accomplish the following:
 - 1.1. Prevent drug abuse through a strong educational effort
 - 1.2. Encourage and facilitate the use of counseling services and rehabilitation programs by those members of the academic community who require their assistance in stopping drug abuse
 - 1.3. Discipline appropriately those members of the academic community who engage in illegal drug-related activities
 2. Education Efforts to Prevent Drug Abuse. In keeping with its primary mission of education, East Carolina University will conduct a strong educational program aimed at preventing drug abuse and illegal drug use. Educational efforts shall be directed toward all members of the academic community.
 - 2.1. Educational efforts will include information about
 - 2.1.1. the incompatibility of the use or sale of illegal drugs with the goals of East Carolina University;
 - 2.1.2. the health hazards associated with illegal drug use;
 - 2.1.3. the incompatibility of drug abuse with the maximum achievement of educational, career, and other personal goals; and the potential legal consequences of involvement with drugs.
 - 2.2. Student Drug Treatment. For students who may experience an alcohol or drug problem while at the university, a substance abuse counseling program is available. Students may call the Center for Counseling and Student Development.
 3. Counseling and Rehabilitation Services to Prevent Drug Abuse. Those faculty, staff, or students who seek assistance with a drug-related problem shall be provided with information about drug counseling and rehabilitation services available through East Carolina University and also through community organizations. Those who voluntarily avail themselves of university services shall be assured that applicable standards of confidentiality will be observed.
 4. Disciplinary Actions to Prevent Drug Abuse.
 - 4.1. Students, faculty members, administrators, and other employees are responsible, as citizens, for knowing about and complying with the provisions of North Carolina law that make it a crime to possess, sell, deliver, or manufacture those drugs designated collectively as "controlled substances" in Article 5 of Chapter 90 of the North Carolina General Statutes. Any

member of the university community who violates that law is subject both to prosecution and punishment by the civil authorities and to disciplinary proceedings by the university.

- 4.2. It is not "double jeopardy" for both the civil authorities and the university to proceed against and discipline a person for the same specified conduct. The university will initiate its own disciplinary proceedings against a student, faculty member, administrator, or other employee when the alleged conduct is deemed to affect the interests of the university.
- 4.3. Penalties will be imposed by the university in accordance with procedural safeguards applicable to disciplinary actions against students, faculty members, administrators, and other employees, as required by applicable ECU policy.
- 4.4. Penalties will vary upon the nature and seriousness of the offense. For students, the University will take into account mitigating or aggravating factors existing at the time of the offense, which may include, but are not limited to: a student's past disciplinary record, the nature of the misconduct (ie the Student was acting under duress or a mental condition; played a minor role in the commission of the offense; knowingly exposed others to a great risk; convinced others to participate due to a position of leadership, dominance, trust or confidence; or the offense involved weapons or was especially heinous), as well as other relevant information regarding the degree of any damage, injury, or harm resulting from it. The penalties to be imposed by the university may range from written warnings with probationary status to expulsions from enrollment and discharges from employment. The following penalties may be imposed for the particular offenses described, below.

4.4.1. Illegal Drug Trafficking

- 4.4.1.1. For the illegal manufacture, sale, delivery, or possession with intent to manufacture, sell, or deliver, of any controlled substance identified in Schedule I, N.C. General Statutes 90-89, or Schedule II, N.C. General Statutes 90-90 (including, but not limited to, heroin, mescaline, lysergic acid diethylamide, opium, cocaine, amphetamine, methaqualone), any student may be expelled, and any faculty member, administrator, or other employee may be discharged.
- 4.4.1.2. For a first offense involving the illegal manufacture, sale, delivery, or possession with intent to manufacture, sell, or deliver, of any controlled substance identified in Schedules III through VI, N.C. General Statutes 90-91 through 90-94 (including, but not limited to, marijuana, phenobarbital, codeine), the penalty may be suspension from enrollment or from employment for a period of at least one semester or its equivalent. For a second offense, any student may be expelled, and any faculty member, administrator, or other employee may be discharged.

4.4.2. Illegal Drug Possession

- 4.4.2.1. For a first offense involving the illegal possession of any controlled substance identified in Schedule I, N.C. General Statutes 90-89, or Schedule II, N.C. General Statutes 90-90, the penalty may be suspension from enrollment or from employment for a period of one semester or its equivalent..
- 4.4.2.2. For a first offense involving the illegal possession of any controlled substance identified in Schedules III through VI, N.C. General Statutes 90-91 through 90-94, the penalty may be a period of monitoring to be determined on a case-by-case basis, during which a person must agree to participate in a drug education and counseling program, consent to regular drug testing, and accept such other

conditions and restrictions, including a program of community service, as the chancellor or the chancellor's designee deems appropriate. Refusal or failure to abide by these terms may result in suspension from enrollment or from employment for any unexpired balance of the prescribed period of probation.

4.4.2.3. For second or other subsequent offenses involving the illegal possession of controlled substances, progressively more severe penalties shall be imposed, including expulsion of student and discharge of faculty members, administrators, or other employees.

4.4.3. A student, faculty member, or staff member found to have violated applicable law or University policies concerning illegal drugs may be required to participate in a drug education and counseling program, consent to regular drug testing, and accept such other conditions and restrictions, including a program of community service, as the chancellor or the chancellor's designee deems appropriate. Refusal or failure to abide by such conditions and restrictions may result in additional disciplinary action, up to and including expulsion from enrollment and discharge from employment.

4.5. Suspension Pending Final Disposition. When a student, faculty member, administrator, or other employee has been charged by the university with a violation of policies concerning illegal drugs, he or she may be suspended from enrollment or removed from work before initiation or completion of regular disciplinary proceedings if, assuming the truth of the charges, the chancellor or the chancellor's designee concludes that the person's continued presence within the university community would constitute a clear and immediate danger to the health or welfare of other members of the university community; provided that if such a suspension is imposed, an appropriate hearing of the charges against the suspended person shall be held as promptly as possible thereafter.

4.6. Notification by Employees. In the case of employees, anyone convicted of a criminal drug statute violation occurring in the workplace shall notify the university no later than five days after such conviction. The university will commence disciplinary action against such an individual within thirty days of notice of conviction.

5. Responsibilities Under This Policy

5.1. All employees and students shall be responsible for abiding by the provisions of this policy. In the case of employees, adherence with the provisions of the policy shall be a condition of employment.

5.2. The chancellor shall designate a coordinator of drug education who shall, acting under the authority of the chancellor, be responsible for overseeing all actions and programs relating to this policy. The chancellor will report to the board of trustees on the effectiveness of this policy.

5.2.1. As required by the Drug-Free Workplace Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989 and applicable UNC System policy, the coordinator will conduct a biennial review of the effectiveness of its educational programs regarding illegal drugs and the consistency of sanction enforcement, and maintain the results of these reviews

Dissemination of This Policy

- 6.1. This policy is provided to each new employee at the beginning of their employment.
- 6.2. Each student residing in university housing shall receive a copy of this policy. The vice chancellor for student life shall designate several locations on campus where students can obtain copies of this policy.
- 6.3. The policy shall be printed in appropriate student documents and posted on official bulletin boards of the university."

Faculty Senate Agenda
April 16, 2013
Attachment 4.

FACULTY GOVERNANCE COMMITTEE REPORT

Additional Proposed Revisions to the *ECU Faculty Manual*, Part VII, Faculty Research and Scholarship, Section III. Regulation on Research Conduct

Following the Chancellor's rejection of Faculty Senate Resolution #13-24, additional revisions are noted below in **bold** print and deletions in ~~strikethrough~~. The proposed text replaces the current text in Part VII, Section III. entitled Regulation on Research Conduct (*Interim Regulation 06.19.12, effective July 13, 2012*).

"SECTION III. Ethics and Conduct in Research, Creative Activity, and Scholarship

CONTENTS

- I. Introduction
- II. Definitions
- III. Rights and Responsibilities
- IV. General Policies and Principles
- V. Conducting the Assessment and Inquiry
- VI. The Inquiry Report
- VII. Conducting the Investigation
- VIII. The Investigation Report
- IX. Completion of Cases; Reporting Premature Closures
- X. Institutional Administrative Actions
- XI. Other Considerations

I. Introduction

A. General Policy

All ~~individuals associated with~~ East Carolina University **faculty**, ~~including, but not limited to faculty, staff, postdoctoral scholars, and students,~~ have the responsibility to seek honestly and to promulgate ethically the truth in all phases of work. This responsibility governs not only the production and dissemination of research and creative activities, but also all applications for funding, reports to funding agencies, and teaching and publication of teaching materials.

B. Scope

This policy applies to allegations of research misconduct (fabrication, falsification, or plagiarism) involving ~~individuals associated with~~ East Carolina University **faculty**, ~~including, but not limited to,~~

faculty, staff, postdoctoral scholars, and students. This policy does not apply to authorship or collaboration disputes [see Part VII, Section II (VI.)].

I. Definitions

A. Research means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Creative Activity refers to scholarship of research, scholarship of creative activity/innovation, and the scholarship of engagement and/or outreach, as defined in the *ECU Faculty Manual* Part VII, Section I. For the purposes of this policy, Research includes all basic, applied, and demonstration research in all academic and scholarly fields. Research and creative activity fields include, but are not limited to: the arts, the basic sciences, liberal arts, applied sciences, social sciences, clinical sciences, the professions, and research involving human subjects or animals.

B. Research and Creative Activity Misconduct (hereinafter misconduct) is defined as fabrication of results, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting the results. Research misconduct does not include honest error or differences of opinion.

C. Fabrication of results is making up data or results and recording or reporting them.

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

E. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

F. Allegation means a disclosure of possible misconduct through any means of communication. The disclosure may be a written or oral statement or other communication to an ECU administrator or Research Integrity Officer (RIO) (see L. of this section).

G. Complainant means a person who in good faith makes an allegation of misconduct. There may be more than one Complainant in a given case.

H. Respondent means a person against whom is made an allegation of misconduct. There may be more than one Respondent in a given case.

I. Good faith as applied to a complainant or witness means having a belief in the truth of one's allegation or testimony. 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 definition. 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.

J. Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

K. Research Record means the record of data or results that embody the facts resulting from research and creative activity, including but not limited to, research proposals, laboratory records both physical and electronic, progress reports, abstracts, theses, dissertations, oral presentations, internal reports, journal articles, creative works, and any documents and materials provided to a sponsoring agency having jurisdiction and authority or an institutional official by a respondent in the course of the research misconduct proceeding. A research record also includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports, laboratory notebooks, notes, correspondence, videos, photographs, X-ray film, slides, biological materials, computer files and printouts, manuscripts and publications, equipment use logs, laboratory procurement records, animal facility records; human and animal subject protocols, consent forms, medical charts, and human subject research files.

L. Research Integrity Officer (RIO) is the institutional official responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct, are covered by law, regulation, or research sponsor policy, and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified; (2) overseeing inquiries and investigations; and (3) the other responsibilities described in this policy. The RIO for ECU is the Director of the Office of Research Compliance Administration.

M. Deciding Official (DO) means the institutional official who makes final determinations on allegations of research misconduct. The Deciding Official will not be the same individual as the Research Integrity Officer and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. A DO's appointment of an individual to assess allegations of research misconduct, or to serve on an inquiry or investigation committee, is not considered to be direct prior involvement. The DO for ECU is the Vice Chancellor for Research and Graduate Studies. In the event that the Vice Chancellor for Research and Graduate Studies has a conflict of interest for a particular case then the Chancellor shall appoint a designee as the DO for that particular case.

III. Rights and Responsibilities

A. Research Integrity Officer

The Research Integrity Officer (RIO) will have primary responsibility for implementation of this policy. These responsibilities include the following duties related to misconduct proceedings:

1. Consult confidentially with persons uncertain about whether to submit an allegation of misconduct;
2. Receive allegations of misconduct;
3. Assess each allegation of misconduct in accordance with **V. (A.) of this Section** ~~Section 5.1 of this policy~~ to determine whether it falls within the definition of misconduct and warrants an inquiry;
4. As necessary, take interim action and notify sponsors of special circumstances, in accordance with **IV. (F.) of this Section** ~~Section 4.6 of this policy~~;
5. Sequester data or other products of scholarly activities and evidence pertinent to the allegation of misconduct in accordance with **V. (C.) of this Section** ~~Section 5.3 of this policy~~, and maintain it securely in accordance with this policy and with applicable law and regulation;
6. Provide confidentiality to those involved in the misconduct proceeding as required by applicable law and university policy;

7. Notify the respondent and provide opportunities for him/her to review/ comment/respond to allegations, evidence, and committee reports in accordance with III.(C) of this Section;
8. Inform respondents, complainants, and witnesses of the procedural steps in the misconduct proceeding;
9. Ensure that the Deciding Official appoints the chair and members of the inquiry and investigation committees, ensure that those committees are properly staffed, that the members are without conflicts, and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
10. Determine whether each person involved in handling an allegation of misconduct has any unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the misconduct proceeding;
11. In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and to counter potential or actual retaliation against them by respondents or other institutional members;
12. Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of misconduct;
13. Notify and make reports to sponsoring agencies as required by applicable law or regulation;
14. Take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of corrective actions; and
15. Maintain records of the misconduct proceeding and make them available to sponsoring agencies as appropriate under **VIII. (D). of this Section** ~~8.4 of this policy.~~

B. Complainant

The Complainant is responsible for making allegations in good faith, maintaining confidentiality [as defined in IV.(C.)], and cooperating with the inquiry and investigation. As a matter of good practice, the complainant should be interviewed at the inquiry stage and given the transcript or recording of the interview for correction.

The RIO may provide to the complainant for comment: (1) relevant portions of the inquiry report (within a timeframe that permits the inquiry to be completed within sixty (60) calendar days of its initiation, unless an extension of time is granted in accordance with the terms of this policy); and (2) relevant portions of the draft report of the investigation. Any comments on the draft investigation report must be submitted within thirty (30) calendar days of the date on which the complainant received the draft report. The University must consider any comments made by the complainant on the draft investigation report and include those comments in the final investigation report. See IV.(D.) of this Section for rights and protections of the Complainant.

C. Respondent

1. The Respondent is responsible for maintaining confidentiality [as defined in IV. (C.)] and cooperating with the conduct of an inquiry and investigation. The Respondent is entitled to:
 - a. A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an inquiry;
 - b. An opportunity to comment on the inquiry report and have his/her comments attached to the report;
 - c. Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of, or refers to this policy;
 - d. Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (usually

within thirty (30) calendar days after the institution decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;

- e. Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;
- f. Have interviewed during the investigation any witness who has been reasonably identified by the Respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and
- g. Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based, and be notified that any comments must be submitted within thirty (30) calendar days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.

2. The Respondent should be given the opportunity to admit that misconduct of research or creative activity occurred and that he/she committed the misconduct. With the advice of the RIO and/or other institutional officials, the Deciding Official may terminate the institution's review of an allegation that has been admitted, if the institution's acceptance of the admission and any proposed settlement is approved by any sponsoring agency having authority and jurisdiction. See Part IV. Section (D.) of this Section on rights and protections of the Respondent.

D. Deciding Official

1. The DO will receive the inquiry report and after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted. Any finding that an investigation is warranted must be made in writing by the DO and, where required by applicable law or regulation, must be provided to any sponsoring agency with authority and jurisdiction, together with a copy of the inquiry report, within thirty (30) calendar days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least seven (7) years after termination of the inquiry, so that any sponsoring agency with authority and jurisdiction may assess the reasons why the institution decided not to conduct an investigation.
2. The DO will receive the investigation report and, may request all other associated documentation, after consulting with the RIO and/or other institutional officials, decide the extent to which he/she accepts the findings of the investigation and, if research misconduct is found, refer the matter to the appropriate Vice Chancellor to decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative actions are provided to any sponsoring agency with jurisdiction and authority, as required by law or regulation.

IV. General Policies and Principles

A. Responsibility to Report Misconduct

1. ~~All individuals associated with ECU faculty, including, but not limited to: faculty, staff, postdoctoral scholars, and students at any level,~~ will report observed, suspected, or apparent misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the

definition of misconduct, he or she may meet with or contact the RIO to discuss the suspected misconduct informally, which may include discussing it hypothetically. If the circumstances described by the individual do not meet the definition of misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem, if any.

2. At any time, an institutional member may have discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

B. Cooperation with Misconduct Proceedings

All individuals associated with ECU **faculty**, including, but not limited to, ~~faculty, staff, postdoctoral scholars and students~~, will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. These individuals, including Respondents, have an obligation to provide evidence relevant to misconduct allegations to the RIO or other institutional officials.

C. Confidentiality

The RIO shall: (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which human research participants might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that any person and/or entity receiving information about the case does not make any further disclosure of identifying information.

D. Protecting complainants, witnesses, and committee members

~~Individuals associated with ECU **faculty**, including, but not limited to: faculty, staff, postdoctoral scholars, and students~~, may not retaliate in any way against complainants, witnesses, or committee members. Any such retaliation is itself serious, and shall be subject to sanction. Any alleged or apparent retaliation against complainants, witnesses or committee members should be immediately reported to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

E. Protecting the Respondent and Use of Legal Counsel

1. As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical effort to protect or restore the reputation of persons alleged to have engaged in misconduct, but against whom no finding of misconduct is made.
2. During the misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided for in this policy. Respondents may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the personal advisor or legal counsel to interviews or meetings on the case. The role of the respondent's legal counsel is restricted to advising the respondent(s) and he/she may not act in a representative capacity or otherwise actively participate in interviews, meetings, or hearings.
3. The University shall provide legal counsel to assist the RIO, DO, Inquiry Panel, and Investigation Committee. The role of counsel is to advise and not to act in a representative capacity or otherwise actively participate in interviews, meetings, or hearings; provided, however, University counsel may be present at such interviews, meetings, or hearings, and must be present whenever respondent's legal counsel is present.

F. Interim Administrative Actions

1. Throughout the misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, animal health, sponsor funds, equipment, or the integrity of the sponsored research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and any sponsoring agency with jurisdiction and authority, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of equipment or sponsor funds, freezing or limiting access to fund accounts, reassignment of personnel or of the responsibility for the handling of human research participants or animal research subjects, equipment or sponsor funds, additional review of research data or creative activity products, or delaying publication.
2. The RIO shall, at any time during a misconduct proceeding, notify any sponsoring agency with jurisdiction and authority immediately if he/she has reason to believe that any of the following conditions exist:
 - a. Health or safety of the public is at risk, including an immediate need to protect human participants or animal subjects;
 - b. Resources or interests of sponsor are threatened;
 - c. Research or creative activities should be suspended;
 - d. There is a reasonable indication of possible violations of civil or criminal law;
 - e. Action is required to protect the interests of those involved in the misconduct proceeding;
 - f. The misconduct proceeding may be made public prematurely and action may be necessary to safeguard evidence and protect the rights of those involved; or
 - g. The scholarly community or the public should be informed.

G. Conducting the Assessment and Inquiry

A. Assessment of Allegations

1. Upon receiving an allegation of misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified and whether the allegation falls within the definition of misconduct. An inquiry must be conducted if these criteria are met.
2. The assessment period should be brief, concluded within a reasonable time period as warranted by the nature of the allegations, typically within seven (7) to twenty-one (21) calendar days. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, copy as warranted, and sequester all records and evidence [see II. (K.)] needed to conduct the misconduct proceeding, as provided in V.(C.) of this Section.
3. If the criteria required to investigate are not met, the RIO is responsible for preparing a final report to be distributed to the respondent, complainant, and the DO within thirty (30) calendar days.

B. Initiation and Purpose of the Inquiry

If the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

C. Notice to Respondent; Sequestration of Research Records and Evidence

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the misconduct proceeding. The RIO will inventory the records and evidence and sequester them in a secure manner. There may be exceptions where the records or evidence encompass scientific instruments (or other tools or equipment essential to the research or creative activity in question) which are shared by a number of users. In those cases, custody of the records may be limited to copies of the data or evidence on or recorded in such instruments, so long as copies can be made substantially equivalent to the evidentiary value of the equipment itself. The RIO will provide a receipt of sequestered items to the respondent(s) or other individuals who have information relating to the inquiry. The RIO may consult with any sponsoring agency with jurisdiction and authority for advice and assistance in this regard.

D. Appointment of the Inquiry Panel

The DO, in consultation with the RIO and other institutional officials as appropriate, will appoint an Inquiry Panel of at least three individuals, as soon after the initiation of the inquiry as is practical. The majority of the committee shall be faculty without administrative appointment. The Inquiry Panel must consist of individuals who have no unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific or other relevant expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. The committee members may be selected from inside or outside the University as warranted. The respondent, once known, will be notified in writing of the proposed committee membership and may object to a proposed member based upon a personal, professional, or financial conflict of interest. Any such objections must be submitted to the RIO no more than ten (10) calendar days from the date of the notification. The RIO will make the final determination of whether a conflict exists.

E. Charge to the Committee and First Meeting

1. The RIO will prepare a charge for the Inquiry Panel that:

- a. Sets forth the time for completion of the inquiry;
- b. Describes the allegation(s) and any related issues identified during the allegation assessment;
- c. States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether misconduct definitely occurred or who was or were responsible;
- d. States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of misconduct; and, (2) the allegation(s) may have substance, based on the committee's review during the inquiry.
- e. Informs the Inquiry Panel that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and applicable law or regulation.

2. At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by

the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.

F. Inquiry Process

The Inquiry Panel may interview the complainant, the respondent and key witnesses as well as examining relevant research records and materials. Then the Inquiry Panel will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this policy. The scope of the inquiry is not required to, and does not normally, include deciding whether misconduct definitely occurred, determining definitely who committed the misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, as required by applicable law or regulation, the institution shall promptly consult with any sponsoring agency with jurisdiction and authority, to determine the next steps that should be taken (See IX. of this Section).

G. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within sixty (60) calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60 calendar day period. The respondent will be notified in writing of the extension.

VI. The Inquiry Report

A. Elements of the Inquiry Report

1. A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of misconduct; (3) the identification of any sponsor support, including, for example, grant numbers, grant applications, contracts and publications; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant.
2. Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the Inquiry Panel. The inquiry report should include: the names and titles of the committee members and experts who conducted the inquiry; a summary of the inquiry process used; a list of the records and other evidence reviewed; summaries of any interviews; and whether any other actions should be taken if an investigation is not recommended.

B. Notification to the Respondent and Complainant and Opportunity to Comment

1. The RIO shall notify the respondent and the complainant whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment(s) usually within fourteen (14) calendar days, and include a copy of or refer to this policy. The complainant will receive only a copy of the portions of the draft inquiry report that address the claimant's role and opinions in the investigation for comment. The complainant shall execute in advance a written confidentiality agreement in a form approved by the Office of the University Attorney as a condition for access to the report.
2. Any comments that are submitted by the respondent and the claimant, respectively, will be attached to the final inquiry report. Based on the comments, the Inquiry Panel may revise the

draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.

C. Institutional Decision and Notification

1. Decision by Deciding Official

The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination.

2. Notification to External Sponsoring Agencies

Within thirty (30) calendar days of the DO's decision that an investigation is warranted, as required by applicable law or regulation, the RIO will provide any sponsoring agency with authority and jurisdiction with the DO's written decision and a copy of the inquiry report. The RIO will also notify those institutional officials who need to know of the DO's decision. As required by applicable law or regulation, the RIO must provide the following information to such sponsoring agency upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the allegations to be considered in the investigation.

3. Documentation of Decision Not to Investigate

If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for seven (7) years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by sponsoring agencies with authority and jurisdiction of the reasons why an investigation was not conducted. These documents must be provided to such agencies upon request.

II. Conducting the Investigation

A. Initiation and Purpose

The investigation must begin within thirty (30) calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials, potential harm to human participants or animal subjects, the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation must be set forth in an investigation report.

B. Notifying Respondent; Sequestration of Research Records

1. As required by applicable law or regulation, on or before the date on which the investigation begins, the RIO must: (1) notify any sponsoring agency with jurisdiction and authority of the decision to begin the investigation and provide such sponsoring agency a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

2. The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the misconduct proceedings that were not previously sequestered

during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the University's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

C. Appointment of the Investigation Committee

The DO, in consultation with the RIO and other institutional officials as appropriate, will appoint an investigation committee of at least five (5) individuals, as soon after the beginning of the investigation as is practical, preferably within ten calendar days. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific or other relevant expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. The majority of the committee should be faculty without administrative appointment. Individuals appointed to the investigation committee may also have served on the Inquiry Panel. When necessary to secure the necessary expertise or to avoid conflicts of interest, the DO may select committee members from outside the University. The respondent will be notified of the proposed committee membership and given an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest. If so, the respondent must submit objections in writing to the RIO no more than ten (10) calendar days from the date of the notification. The RIO will make the final determination of whether a conflict exists.

D. Charge to the Committee and the First Meeting

1. Charge to the Committee - The RIO will define the subject matter of the investigation in a written charge to the committee that:

- a. Describes the allegations and related issues identified during the inquiry;
- b. Identifies the respondent(s);
- c. Informs the committee that it must conduct the investigation as prescribed in VII.(E.) of this Section;
- d. States the following: "*Research and Creative Activity Misconduct (hereinafter misconduct) is defined as fabrication of results, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting the results. Research misconduct does not include honest error or differences of opinion.*"
- e. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, misconduct occurred and, if so, the type and extent of it and who was responsible;
- f. Informs the committee that in order to determine that the respondent committed misconduct it must find that a preponderance of the evidence establishes that: (1) misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the misconduct is a significant departure from accepted practices of the relevant community; and (3) the respondent committed the misconduct intentionally, knowingly, or recklessly; and
- g. Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and applicable law or regulation.

2. First Meeting

The RIO will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation

committee will be provided with a copy of this policy and any applicable federal or state law or regulation governing the investigation. The RIO will be present or available throughout the investigation to advise the committee as needed.

E. Investigation Process

The investigation committee and the RIO must:

1. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all records and evidence relevant to reaching a decision on the merits of each allegation;
2. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
3. Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
4. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible misconduct, and continue the investigation to completion.

F. Time for Completion

The investigation is to be completed within one-hundred twenty (120) calendar days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and, as required by applicable law or regulation, sending the final report to any sponsoring agency with jurisdiction and authority. However, if the RIO determines that the investigation will not be completed within this time period, as required by applicable law or regulation, he/she will submit to any sponsoring agency with jurisdiction and authority a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with such agency, if the agency grants the request for an extension and directs the filing of such reports. If no sponsoring agency is involved, any request for extension of time must be approved in writing by the DO and the respondent notified in writing of such approval.

VIII. The Investigation Report

A. Elements of the Investigation Report

The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:

1. describes the nature of the allegation of misconduct, including identification of the respondent;
2. describes and documents any relevant external sponsor support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing the sponsor support;
3. describes the specific allegations of misconduct considered in the investigation;
4. includes the University policies and procedures under which the investigation was conducted;
5. identifies and summarizes the records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
6. includes a statement of findings for each allegation of misconduct identified during the investigation. Each statement of findings must: (1) identify whether the misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by

respondent to establish by a preponderance of the evidence that the act in question was not misconduct but was instead an honest error or difference of opinion; (3) identify the specific sponsor support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with any sponsoring agencies.

B. Comments on the Draft Report and Access to Evidence

1. Respondent

The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed thirty (30) calendar days from the date he/she received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report.

2. Complainant

The RIO must give the complainant a copy of the portions of the draft investigation report that address the claimant's role and opinions in the investigation for comment. The complainant will be allowed thirty (30) calendar days from the date he/she received the draft report to submit comments to the RIO. The complainant's comments must be included and considered in the final report. The complainant shall execute in advance a written confidentiality agreement in a form approved by the Office of the University Attorney as a condition for access to the report.

3. Confidentiality

In distributing the draft report, or portions thereof, to the respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality.

C. Decision by Deciding Official

1. The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's(s') comments are included and considered, and transmit the final investigation report to the DO, who will determine and state in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.

2. When a final decision on the case has been reached, the RIO will normally notify both the respondent and the complainant in writing. After informing ORI, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which relevant reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

D. Notice of Institutional Findings and Actions

In accordance with applicable law or regulation, unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation, submit the following to any sponsoring agency with jurisdiction and authority: (1) a copy of the final investigation report with all

attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found scholarly misconduct and, if so, who committed the research misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

E. Maintaining Records for Review by Sponsoring Agencies

In accordance with applicable law or regulation, the RIO must maintain and provide to any sponsoring agency with jurisdiction and authority upon request records of misconduct proceedings. Unless custody has been transferred to the sponsoring agency or that agency has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven (7) years after completion of the proceeding or the completion of any sponsoring agency proceeding involving the research misconduct allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by the sponsoring agency to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation.

IX. Completion of Cases; Reporting Premature Closures to Sponsoring Agencies

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. In accordance with applicable law or regulation, the RIO must notify any sponsoring agency with jurisdiction and authority in advance if there are plans to close a case at the inquiry or investigation stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct at the investigation stage, which must be reported to the sponsoring agency, as prescribed in this policy.

X. Institutional Administrative Actions

If the DO determines that misconduct is substantiated by the findings, he or she will refer the case to the appropriate Vice Chancellor to decide on the administrative actions to be taken, after consultation with the RIO, the DO, and respective dean and director or chair. The administrative actions may include:

- A. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
- B. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
- C. Restitution of funds to the grantor agency as appropriate; and
- D. Other action appropriate to the research misconduct, including, but not limited to, the imposition of sanctions, up to and including termination from employment.

Respondent may appeal imposition of sanctions through the appropriate appellate committee as described in the *ECU Faculty Manual*, Part IX, Section I Tenure and Promotion Policies and Procedures of East Carolina University or, if discharge or serious sanctions are not imposed, through *ECU Faculty Manual*, Part XII, Section I Faculty Grievance Policies and Procedures.

XI. Other Considerations

A. Termination or Resignation Prior to Completing Inquiry or Investigation

1. The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the University's responsibilities to investigate the alleged misconduct.
2. If the respondent, without admitting to the misconduct, elects to resign his or her position after the University receives an allegation of misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

B. Restoration of the Respondent's Reputation

Following a final finding of no misconduct, including concurrence of any sponsoring agency with jurisdiction and authority where required by law or regulation, the institution must undertake reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of misconduct was previously publicized, and expunging all reference to the misconduct allegation from the respondent's personnel file. Any actions by the RIO to restore the respondent's reputation should first be approved by the DO.

C. Protection of the Complainant, Witnesses and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

D. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the complainant's allegations of misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith he/she will refer the matter to the appropriate Vice Chancellor to determine whether any administrative action should be taken against the person who failed to act in good faith.

E. Other Considerations

Respondent may appeal imposition of **Institutional** sanctions through the appropriate appellate committee as described in the *ECU Faculty Manual*, Part IX, Section I Tenure and Promotion Policies and Procedures of East Carolina University or, if discharge or serious sanctions are not imposed, through *ECU Faculty Manual*, Part XII, Section I Faculty Grievance Policies and Procedures.

Related Policies:

UNC Policy Manual 500.7

ECU Academic Integrity Policy - ECU Faculty Manual Part VI (Section II)

Additional References:

National Science Foundation Research Misconduct Regulation 45 CFR 689

Public Health Service Research Misconduct Regulation 42 CFR 93

Research Compliance Administration Website”

Faculty Senate Resolution #13-64

Approved by the Faculty Senate: April 16, 2013

Accepted by the Chancellor:

Formal faculty advice on proposed ECU Copyright Regulation

(Additions are noted in **bold** print and deletions in ~~strikethrough~~)

History: First Issued: August 6, 2002. Last Revised:

Additional History Information:

Related Policies:

[UNC Policy 500.2 - Patent and Copyright Policies](#)

[UNC Policy 500.2.1\[R\] – Regulations for Establishing a Copyright Use and Ownership Policy](#)

[ECU POL XXX – ECU Patent Policy](#)

[ECU POL XXX - Academic Computer Use Policy](#)

[ECU POL XXX – University Student and Employee Computer Use Policy](#)

[ECU POL XXX - ECU Graphics and Licensing Standards](#)

[ECU POL XXX – Policy Regarding Commercial Exploitation of Classroom Materials](#)

Additional References:

[United States Copyright Statutes](#)

ECU Disclosure Form for Copyright Ownership Determination

Independent Contractor Copyright Clause

Volunteer Agreement on Copyright

[N.C.G.S. §116-34 - Duties of Chancellor of Institution](#)

[ECU Copyright Resources](#)

1. INTRODUCTION

This regulation implements and ~~eaffects~~ the provisions of the Patent and Copyright Policies and the Regulations for Establishing a Copyright Use and Ownership Policy of the University of North Carolina (“UNC Polices”). This regulation should be read in conjunction with the UNC Policies. By delegation of the Chancellor, the Vice Chancellor for Research and Graduate Studies (“**Vice Chancellor**”) shall administer ECU’s Copyright Regulation and develop and implement the procedures necessary for its administration.

This regulation seeks to balance the legitimate rights and responsibilities of ECU, its faculty, staff, and students in order to encourage a scholarly atmosphere that enhances ECU’s ability to meet its missions of teaching, research, and service.

2. DEFINITIONS

~~2.1. "Creator" means the author of the original expression in a work.~~

~~2.2. "Commercialization" means to sell, license or otherwise transfer some or all of the intellectual property rights in a work including grants of permission or a license to use the work.~~

~~Commercialization does not include the transmission of technical reports to the sponsor or submission of scholarly journal articles for publication, nor the provision of course materials (e.g., course packs) to the ECU Bookstore or similar vendor developed for use by students in conjunction with a specific ECU course.~~

2.1 "Commercialization" means **selling, licensing, or otherwise transferring** to sell, license or otherwise transfer some or all of the intellectual property rights in a work including grants of permission or a license to use the work. Commercialization does not include the transmission of technical reports to the sponsor or submission of scholarly journal articles for publication, nor the provision of course materials (e.g., course packs) to the ECU Bookstore or similar vendor developed for use by students in conjunction with a specific ECU course.

2.2 "Creator" means the author of the original expression in a work.

2.3. "Direct Costs" mean documented costs of production, financial support for creation of the work, sales, advertising, distribution, licensing, costs of obtaining patents, copyrights, stipends, and release time.

2.4. "Directed Work(s)" means a work(s) that is specifically funded or created at the direction of ECU. A Directed Work includes a work created as a specific requirement of employment or arising out of employment responsibilities at the University. In addition, a Directed Work shall include **works any Work** produced as a collaborative effort initiated by a college or department, or **a wWorks that is are** created and then developed and improved over time by a series of individuals, where authorship cannot be attributed to any one individual or group of individuals. Computer software created by non-faculty University programmers for use by the University constitutes Directed Works. A Directed Work also includes a work created by faculty, staff, or students in a University institute, center, or other unit that, with approval of the Vice Chancellor for Research and Graduate Studies, has adopted rules providing that copyright in materials authored by such faculty, staff, or students in the course of their professional work or course study with that unit vests in the University and not in its author. **Absent an Exceptional Use of University Resources (Subsection 2.6) or use of Sponsored Resources (Subsection 2.7)**, instructional materials or courseware created by faculty members or instructors required to teach face-to-face, distance education, or correspondence courses as part of their employment responsibilities shall not be deemed Directed Works. ~~provided Exceptional Use of University Resources or Sponsored Resources are not utilized.~~

2.5. "Distance Education" or "Distance Learning" means a course in which more than fifty percent (50%) of instruction (interaction between students and instructors and among students) in a course occurs when students and instructors are not co-located. Instruction may be synchronous or asynchronous. The course may use internet, closed circuit, cable, fiber optics, DVDs, CD-ROM or other electronic means to facilitate learning.

2.56. "Exceptional Use of University Resources" means the University has provided support for the creation of the work with resources of a degree or nature not routinely made available to faculty, other EPA employees, SPA or CSS staff, or students. Except as is otherwise permitted by the

University's policies on Conflicts of Interest and **Commitment External Professional Activities for Pay**, University resources are to be used solely for University purposes and not personal gain or personal commercial advantage, nor for any other non-University purposes. Exceptional Use of University Resources may include, but is not limited to: –waiver of fees normally required to use specialized facilities such as equipment, production facilities, service laboratories, specialized computing resources, and studios; University funding or gifts in support of the work's creation; or reduction in levels of teaching, service, or other typical University activities (e.g., course-load, student advising, division/department meetings, office hours, administrative responsibilities) specifically to facilitate creation of the work. In addition, use of the University's name in connection with a personal work, other than by way of identification of the Creator as a faculty member, researcher or other employee or student at ECU, is itself Exceptional Use of University Resources. However, ordinary use of computers, laboratory space, libraries, office space or equipment, **Distance Learning resources**, limited secretarial or administrative services, or professional development activities shall not be considered Exceptional Use of University Resources. For students enrolled in a course of study, use of course laboratory, computing and library facilities, software, supplies and materials at a level ordinarily provided to students in the course are not considered to be Exceptional Use of University Resources.

2.67. "Sponsored or Externally Contracted Work" means any copyrightable work developed using funds supplied under a contract, grant, or other arrangement between the University and third parties, including a sponsored research agreement.

2.78. "Student" means any person from the time ~~s/he~~ **they** accepts admission to ECU through the date of ~~her/his~~ **their** graduation. This includes new students at Orientation, persons not currently enrolled but who are still seeking a degree from ECU, any person enrolled in a credit earning course offered by ECU, and teaching, graduate, and research assistants.

2.89. "Student Work" means ~~a~~ **papers**, computer programs, theses, dissertations, artistic and musical works, and other creative works made by University students that are produced outside any University employment, and are not Sponsored or Externally Contracted Works. Notes of classroom and laboratory lectures and exercises taken by ~~s~~ **Students** shall not be deemed ~~a~~ **Student Works**.

2.910 "Supervisor" means the individual to whom a covered individual reports (faculty, instructor, EPA employees, post-doctoral scholars, SPA and CSS staff, **and student employees**). They are typically the individuals who conduct the covered individual's annual performance evaluation. In the case of faculty or instructor, the supervisor is typically a department chair. Other supervisors include office directors.

2.110. "Traditional or Non-Directed Work" means a pedagogical, scholarly, literary, or aesthetic (artistic) work **originated by a faculty or other EPA employee or Post Doctoral Scholar** resulting from non-directed effort. **Examples of these** ~~Such~~ works may include ~~a~~ **textbooks, manuscripts, scholarly works, fixed lecture notes, Distance Learning material not falling into one of the categories of this Regulation**, works of art or design, musical scores, poems, films, videos, audio recordings, or other works of the kind that have historically been deemed in academic communities to be property of their Creator. A Traditional or Non-Directed Work shall also mean any work created in the course of outside activities resulting from a contract between the individual directly and a third-party.

2.124. "University" means ECU and all of its undergraduate, graduate, and professional schools, colleges, centers, ~~and~~ **institutes**, and administrative units.

2.132. "Work(s)" means an original work of authorship fixed in any tangible medium of expression, **now known or later developed**, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device (**See, e.g., 17 USC § 102(a)**). Examples of these works include: literary works such as books, journal articles, poems, manuals, memoranda, tests, computer programs, instructional material, **Distance Education materials**, databases, and bibliographies; musical works including accompanying words; dramatic works including accompanying music; pantomimes and choreographic works; pictorial, graphic and sculptural works, including photographs, diagrams, sketches, and integrated circuit masks; motion pictures and other audiovisual works such as videotapes; ~~and~~ sound recordings; **and architectural works**.

2.143. "Work Made for Hire" means (a) a work prepared by an SPA or CSS employee within the course and scope of his or her employment, or -(b) a work specially ordered or commissioned for use as a contribution to a collective work, as part of a motion picture or audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. Works created in the course of a student's employment by the University shall be considered Works Made for Hire.

3. SCOPE AND COVERAGE

This regulation applies to all faculty, EPA employees (including postdoctoral scholars), SPA and CSS staff, and students of the University. Compliance with the terms of this regulation is a condition of employment for University faculty, EPA employees, and SPA and CSS staff, and of enrollment for University students. This regulation is subject to any applicable laws and regulations or to specific provisions in grants or contracts that govern rights in works subject to copyright created in connection with sponsored research.

4. FACULTY, STAFF, AND STUDENT USE OF WORKS SUBJECT TO COPYRIGHT

4.1. Appropriate Use of Works Subject to Copyright

The University is committed to complying with all applicable copyright laws. As an institution devoted to the creation, preservation, and dissemination of knowledge through teaching, research, and public service, the University supports the responsible, good faith exercise of full fair use and face-to-face instruction rights as codified in 17 U.S.C. §§ 107 and 110(1), by faculty, staff, and students in teaching, research, and service activities. Except as allowed by law, it is a violation of this regulation and law for University faculty, staff, or students to reproduce, distribute, display publicly, perform, digitally transmit, or prepare derivative works based upon a work subject to copyright without permission of the copyright owner.

4.2. Information and Education on Copyright Use

The Vice Chancellor for ~~Research and Graduate Studies~~ shall be responsible for administering and implementing this Regulation. The Vice Chancellor or his or her designee shall:

- (a) provide the University community with information about copyright law, with a particular emphasis on the application of fair use in academic settings;
- (b) hold workshops to educate the University community about copyright and fair use; and

(c) provide resources on copyright laws in general and on the application of fair use.

5. OWNERSHIP

5.1. Ownership by Faculty and EPA Employees

Consistent with academic freedom and tradition, ~~Faculty~~**faculty, non-teaching EPA (Exempt from the State Personnel Act)** employees, and ~~Postdoctoral Scholars~~**postdoctoral scholars** (collectively "EPA Employees" herein) own all Traditional or Non-Directed Works, **including Distance Education materials**, unless the work was a Directed Work, a Work Made for Hire, created with the Exceptional Use of University Resources, or a Sponsored or Externally Contracted Work ~~or a Work Made for Hire~~.

5.2. Ownership by SPA and CSS Employees

~~Most~~ **Works by SPA (Employees Subject to the State Personnel Act) and CSS (Clinical Support Services)** employees are considered to be Works Made for Hire **and is owned by ECU**. However, SPA and CSS employees own works created at their own initiative, outside the scope of their employment, and without Exceptional Use of University Resources. In addition, SPA and CSS employees may own a ~~w~~**Work** when the University waives ownership of the work **in writing** or where there is a written agreement providing ownership to the employee **in accordance with Subsection 7.2.4**.

5.3. Ownership by Students

5.3.1. Subject to the provisions below, Students shall own the copyright in Student Works except where the work:

- (a) is a Sponsored or Externally Contracted Work
- (b) involves Exceptional Use of University Resources; or
- (c) is a Work Made for Hire.

5.3.2. Students are frequently involved in the creation of works in consultation with, or under the supervision of, University faculty and staff. Such works may be related to coursework, research, extracurricular activities, or other University projects. In some circumstances, it is difficult to determine whether and to what extent the students are acting as agents or employees of the University. When ownership of these works is unclear, written agreements with students regarding ownership of the work should be considered, consistent with this regulation and after consideration of the parties' rights and interests. The Copyright Officer shall have resources available to faculty and students regarding such agreements.

5.4. University Ownership

The University owns the following works:

- (a) Directed Works;
- (b) Works involving Exceptional Use of University Resources;
- (c) Sponsored or Externally Contracted Work, unless the contract specifically states otherwise; and
- (d) Works Made for Hire.

5.5. Works Made by Independent Contractors

Works produced for the University by independent contractors shall be considered Works Made for Hire and shall be owned by the University. No University unit or department shall enter into any agreement or arrangement for work to be produced by an independent contractor without a written contract, signed by the authorized University designee, stating University ownership of the intellectual property in the work. The approved Independent Contractor Copyright Clause should be incorporated into such agreements.

5.6. Volunteers

Volunteers shall retain the copyright to works they create unless the University unit or department that has initiated or benefits from the work obtains the copyright or license to use the work. If the volunteer service involves the creation of a work that will be used by the University, the unit or department responsible for overseeing the Volunteer shall have the Volunteer execute a Volunteer Agreement to Grant Copyright License or Volunteer Agreement to Assign Copyright for the work.

5.7. University's License in Works

5.7.1. As a condition of employment, EPA Employees shall be deemed to have granted the University a perpetual, non-exclusive, non-transferrable, royalty-free license to use Traditional or Non-Directed Works and Sponsored or Externally Contracted Works owned by them for the University's own education or research use, unless such license will impede scholarly publication or similar activities, or violate provision of a contract between the EPA employee and a third-party.

5.7.2. As a condition of enrollment, University students shall be deemed to have granted the University a perpetual non-exclusive, non-transferrable, royalty-free license to use any Student Works created as part of an academic endeavor at the University, subject to the student's privacy rights under federal law. ~~This includes the right to archive and display student dissertations or theses, in whole or in part, as part of the ECU Graduate School's Dissertations and Theses Database and the ECU Institutional Repository maintained by Joyner Library.~~

5.8. Creator's License in Works

Where practicable, and subject to any additional terms or limitations made necessary by the University's licensing agreements with third parties, the University shall grant a non-exclusive, non-transferrable, royalty-free license to a University-owned work for the Creator's own educational or research use.

5.9. Works Subject to Both Copyright and Patent Protection

Where an Invention or Creation is subject to protection under both patent law and copyright law, if the University decides to retain title to its patent rights, the Inventor/Creator shall assign all copyrights to the University.

6. DETERMINATION OF COPYRIGHT OWNERSHIP

6.1. Disclosure

6.1.1. When to Disclose

6.1.1.1. ~~The following works must be disclosed at the time the work is created:~~ **Subject to the provisions of subsection 6.1.3 below, the following works must be disclosed within three (3) business days after the work is created:**

- (a) Sponsored or Externally Contracted Works;
- (b) Works involving the creation of software that may have commercial application;
- (c) Works owned by the University where the work will be sold, licensed, displayed, performed, reproduced, or distributed for use outside the University; and
- (d) Works intended to be commercialized, subject to the provisions of subsection 6.1.4-3 below.

6.1.2. Whether to Disclose

6.1.2.1. ~~6.1.1.2.~~ Except as delineated in section 6.1.1.1 above, generally there is no mandatory disclosure requirement for a **W**works created by University employees or students when there is no intent to commercialize the **W**work.

6.1.2.2. ~~6.1.1.3.~~ If a Creator does not make use of any University resources in the course of creating the **W**work and complies with other applicable University policies, including those on Conflict of Interest and Conflict of Commitment ~~and External Professional Activities for Pay~~, the Creator is not required to disclose **W**works intended to be commercialized that result from such activities.

6.1.2.3. ~~6.1.1.4.~~ If a question exists regarding whether disclosure is required, the Creator should contact the ECU Copyright Officer (hereinafter "Copyright Officer").

6.1.3. ~~6.1.2.~~ How ~~Where~~ to Disclose

Disclosures must be made in writing to the Creator's Supervisor in the case of ECU employees **and volunteers** or the Copyright Officer in the case of Student Works developed pursuant to subsection 5.3.1 herein. The Supervisor shall forward the disclosure to the Copyright Officer, with a copy to the dean of his or her respective college and to the Director of the Office of Technology Transfer ("OTT"). The disclosure will not be considered complete until all required information has been provided.

6.2. Determination of Ownership

6.2.1. Upon receipt of the disclosure, the Copyright Officer shall review the disclosure, confer with the Creator, and investigate all questions regarding the issue of ownership. Upon making a determination of ownership, the Copyright Officer shall report in writing to the Creator, with a copy to the dean of **her or his** ~~his or her~~ respective college, to **her or his** ~~his or her~~ Supervisor, and to OTT, **her or his** ~~his or her~~ determination of the **W**work's owner.

6.2.2. If the Creator, dean, or OTT disagrees with the Copyright Officer's decision, the decision may be appealed as outlined in section 8.3.

7. COMMERCIALIZATION OF A WORK

7.1. Employee or Student-Owned Works

7.1.1. A Creator who owns the copyright in **her or his** ~~his or her~~ **W**works under this regulation may commercialize ~~these~~ **such W**works, without the authority or permission of the University, so long as the University's name is not used in connection with the **W**works, other than to identify the Creator as an employee or student at the University. Any use of the University's name in connection with a **W**work created by employee or student must be approved in writing in advance by the Vice Chancellor ~~for Research and Graduate Studies~~. The Vice Chancellor may consult with the Director of the Office of Technology Transfer (**OTT**), the Director of **Trademark** Licensing, **the Director of University Marketing**, the **University Counsel and Vice Chancellor for Legal Affairs Attorney**, and others as appropriate concerning such proposed use.

7.1.2. A University employee or student who owns a work pursuant to this regulation may seek assistance from the University in commercializing the work. In that instance, the Creator shall report the work to OTT using such forms or procedures as OTT shall establish. If, in its discretion, OTT decides to assist in commercialization of the work, OTT and the Creator shall negotiate an agreement governing the commercialization of the work. Any revenue from the commercialization shall be allocated according to subsection 7.2.2 below.

7.1.3. Notes of classroom and laboratory lectures, **syllabi, exercises and other course materials** ~~and exercises~~ taken by ~~s~~Students shall not be deemed Student Works, may only be used for personal educational purposes, and shall not be used for commercialization by the ~~s~~Student generating such notes or by any third party **without the express written permission of the author of such Works. Violation of University Policy may be grounds for disciplinary action in accordance with the ECU Student Conduct Process.**

7.2. University-Owned Works

7.2.1. The University may, in its sole discretion, use and/or commercialize **W**works that it owns pursuant to this regulation.

7.2.2. When a work owned by the University pursuant to this regulation is commercialized by OTT (in accordance with its guidelines and procedures), income from such commercialization shall be apportioned according to the [East Carolina University Patent Policy](#).

7.2.3. If a University-~~e~~Owned ~~w~~**W**ork is to be published and distributed solely for use by students and faculty at the University, such publication and distribution may be conducted by the University department that employs the Creator(s) or that proposes to use the **W**work. In such instance, the department may self-publish the work, or may contract with an outside publisher, subject to the review and approval by the Director of the Office of Technology Transfer. The department shall retain all net revenues related to the work in this circumstance.

7.2.4. OTT may decline commercialization of a University-owned work due to lack of resources, lack of commercial interest, or other reasons OTT deems appropriate. In such case, OTT may assign the work to the Creator(s), subject to any rights retained by any sponsor or third party. In addition, the Creator shall agree (i) that the University reserves a royalty-free, non-exclusive, irrevocable right to use the work for research and educational purposes; (ii) to allow other academic and non-profit institutions similar use on similar terms; and (iii) to indemnify the University against any liability arising ~~om~~ commercialization. **Exceptions may be allowed in accordance with Section 9 below.**

7.3. Works Subject to Both Copyright and Patent Protection

In cases where an invention or creation is subject to protection under both patent law and copyright law, if the University elects to retain title to its patent rights, the University shall be compensated in accordance with the revenue provision of its Patent Policy.

8. COPYRIGHT COMMITTEE

8.1. Appointment

The Copyright Committee shall consist of eleven (11) voting members, appointed by the Vice Chancellor ~~for Research and Graduate Studies~~, which shall serve as an advisory body to him or her and the Copyright Officer. The voting members of the Copyright Committee shall consist of five (5) faculty members, three (3) staff members, one postdoctoral scholar, one graduate student, and one representative of the **Vice** Chancellor, chosen for their familiarity with or involvement in copyright or other intellectual property matters. The Faculty Senate shall nominate to the Vice Chancellor ~~for Research and Graduate Studies~~ five (5) faculty members to serve on the Copyright Committee. The faculty representative nominees shall include at least the Chair of the Faculty or his or her delegate, one Faculty Senator, one member of the Distance Education and Learning Technology Committee, one member of the Research/Creative Activity Grants Committee, and one at-large member elected by the Faculty Senate. The Staff Senate shall nominate to the **Vice** Chancellor three Staff Senate Members to serve on the committee. The Graduate School shall nominate to the **Vice** Chancellor one graduate student and one postdoctoral scholar to serve on the Committee. The **Vice** Chancellor may also appoint **ex officio** ~~ex-officio~~ non-voting members of the ~~e~~Committee from offices such as Technology Transfer, Libraries, ITCS, University **Counsel** Attorney, and the Divisions of Academic Affairs, Health Sciences, Research and Graduate Studies, and Student Affairs. The Copyright Officer shall serve as a **non-voting** ~~nonvoting~~ ex officio member of the Copyright Committee.

8.2. Duties

8.2.1. The Copyright Committee may be asked to:

- (a) **review** ~~Review~~, recommend, and advise the University on matters relating to this Regulation;
- (b) **identify** ~~Identify~~ areas in which policy development is needed and recommend to the Chancellor new or revised University policies and guidelines;
- (c) **review** ~~Review~~ the operation of this Regulation and make recommendations for change when needed;
- (d) **assist** ~~Assist~~ in identifying educational needs of faculty and others related to compliance with copyright policies and guidelines and advising on appropriate ways to address those needs; a
- (e) **serve** ~~Serve~~ as a committee to which a Creator may appeal the Copyright Officer's decisions;
- (f) **meet** ~~Meet~~ at least once each Fall and Spring Academic Semester; and
- (g) **advise the Vice Chancellor** ~~for Research and Graduate Studies~~ regarding exceptions to this Regulation.

8.2.2. The Copyright Committee shall elect annually a Chair from its membership who is responsible for ensuring that the Committee ~~timely~~ executes its duties **in a timely manner** as requested pursuant to Section 8.2.1.

8.3. Appeals

When the Creator, dean, or OTT disputes a decision taken in application of this Regulation by the Copyright Officer, he or she may file a written appeal to the Vice Chancellor ~~for Research and Graduate Studies~~ or **her or his** ~~his or her~~ designee within ten (10) University business days of receiving the Copyright Officer's decision. The Creator, dean, or OTT shall be entitled to appear before the Copyright Committee and present evidence with respect to any matter specifically involving the application of this regulation to **her or his** ~~them or their~~ **W**work. The Copyright Committee will review the matter and make a recommendation to the Vice Chancellor ~~for Research and Graduate Studies~~. The Vice Chancellor ~~for Research and Graduate Studies~~ will conduct any further investigation deemed necessary and will issue the final University written decision to the employee or student and the Copyright Committee.

8.4. Appeals Procedure

8.4.1. Jurisdiction. Review of all matters related to appeal of the Copyright Officer's decision under Section 8.4 of this Regulation shall fall under the exclusive jurisdiction of the Copyright Committee, subject to the final decision of the Vice Chancellor ~~for Research and Graduate Studies~~.

8.4.2. Appointment of the Appeal Panel. Upon notification from the Vice Chancellor ~~for Research and Graduate Studies~~ that he or she has received a timely filed written appeal pursuant to Section 8.3 above, the Chair of the Copyright Committee shall appoint a five (5) member Appeal Panel ("the Panel") to hear appeals with at least three (3) Panel members being selected from the general membership of the Copyright Committee and provided further that if a party with an interest in the appeal is an ECU faculty member then at least three (3) members of the Appeal Panel will be faculty members without administrative appointment. The University shall provide appropriate support to the Panel including, but not limited to, legal assistance from the Office of the University Attorney.

8.4.3. Conflicts of Interest. In the event that the appeal involves the Chair of the Copyright Committee, the Vice Chancellor ~~for Research and Graduate Studies~~ shall appoint the Panel **in accordance with the provision of 8.4.2**. Prior to hearing the appeal, all Panel members shall disclose any personal, professional, or financial conflicts of interest, and shall recuse themselves from the Panel as appropriate. The Chair or Vice Chancellor, respectively, shall appoint a substitute member(s) as necessary. The Panel shall elect a chair from its membership to facilitate hearing of the appeal.

8.4.4. Conduct of the Hearing. All parties to the dispute will be given an opportunity to present evidence and arguments in support of their respective positions. The hearing shall be conducted in accordance with procedures adopted by the Chair of the Panel. A party may be accompanied to the hearing by a non-participating advisor, **provided that, if the** ~~provided, however, if that is~~ advisor is an attorney, then **an attorney from the Office of University Counsel** shall also be present at the hearing. The Copyright Officer may present testimony and evidence during the appeal, but may not serve as chair of the Panel hearing the appeal.

8.4.5. Disposition. Pursuant to Section 8.3 of this Regulation, the Panel shall report its written findings of fact and its recommendation(s) for disposition of the appeal to the Vice Chancellor for ~~Research and Graduate Studies~~. Copies of this report shall be provided to the parties to the appeal.

9. EXCEPTIONS

Exceptions to this regulation may be approved by the Vice Chancellor for ~~Research and Graduate Studies~~ if consistent with UNC Policies and federal and state law. **The Vice Chancellor for ~~Research and Graduate Studies~~ will request that the Copyright Committee consider a request for an exception to this regulation and make a recommendation to her or him concerning the same. The decision of the Vice Chancellor for ~~Research and Graduate Studies~~ is final.**

10. ECU OFFICE OF COPYRIGHT

There shall be an ECU Office of Copyright under the direction of the ECU Copyright Officer. The Provost shall appoint the Copyright Officer. In addition to the Copyright Officer's other duties as described herein, he or she shall assist the Vice Chancellor for ~~Research and Graduate Studies~~ in fulfilling information and education obligations established under Section 4.2 of this Regulation. The ECU Office of Copyright shall serve as the University's primary resource on Copyright, and the Copyright Officer shall be available to assist faculty, staff, postdoctoral scholars, and students with copyright issues. The Office shall develop training and education materials for use by the campus community, and coordinate workshops, conferences, seminars, and other similar activities on copyright.

Below TABLE will be linked within this policy once approved.

Revenue Sharing	1st \$1000 (Gross Receipts)	Next \$100,000 (Net Receipts)	Greater Than \$101,000 (Net Receipts)
Inventor(s)	100%	50%	40%
Department(s)	n/a	15%	15%
School/College(s)	n/a	5%	5%
Invention Management Fund	n/a	25%	30%
Division of Research & Graduate Studies	n/a	5%	10%