

**Austin Peay State  
University**

## **Misconduct in Research and Other Creative Activities**

**Issued:** January 4, 2017

**Responsible** Provost and Vice President for Academic

**Official:** Affairs

**Responsible Office:** Office of Academic Affairs

## **POLICIES**

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### **Policy Statement**

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This policy applies to all faculty, staff, and students of the University in the performance of scholarly and creative activity and research, research training, applications for support of research or research training, or related research activities conducted at or under the auspices of Austin Peay State University. It meets the certification and other requirement guidelines of Section 493 of the Public Health Service (PHS) Act as well as of other Federal and other agencies.

It is understood that the requirement for integrity in the quest for knowledge and in the creation of scholarly, research and artistic works is inherent in the academic purpose. Austin Peay State University maintains high ethical standards in research and other scholarly work. Although this policy should not in any way be construed to restrict academic freedom, Austin Peay State University will provide vigorous leadership and will take immediate action on any allegation or evidence of possible misconduct.

This policy shall not waive the University's nor the respondent's right to seek other legal recourse

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## Definitions

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### Misconduct

Misconduct in research or other creative or scholarly activities is defined to include but is not limited to the following acts committed by faculty, staff, students, and research associates of the University:

- A. The fabrication or falsification of data or results, the theft of methods or data from others, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the academic and research community for proposing, conducting or reporting research or other scholarly or creative activities. It does not include error or honest differences in interpretations or judgements of data.
- B. Failure to comply with Federal and University requirements pertaining to the conduct of research. This includes but is not limited to: falsification of certifications and representations pertaining to government compliance requirements, failure to obtain proper review and approval by the authorized University committee for research that involves human subjects, animals, radioactive materials or other biohazards, and/or failure to follow directives made by authorized University committees concerning research subjects, materials or procedures.
- C. Failure to meet legal requirements governing the proposing, conducting, or reporting of research.
- D. Condoning violations of University research policies. This includes but is not limited to failure to notify appropriate University authorities whenever it becomes obvious or apparent that misconduct probably has occurred, or failure to cooperate in an inquiry or investigation under the procedures specified by this policy.

- E. Retaliation of any kind against a person who in good faith reported or provided information about suspected or alleged misconduct.

**Research Integrity Officer** The Associate Provost of Research and Vice VPAA and Dean of the College of Graduate Studies shall serve as the Research Integrity Officer (RIO) for the University. In the event of a conflict of interest, the VPAA shall name a substitute.

### **Procedures**

Austin Peay State University has an obligation to investigate fully an allegation of misconduct and to resolve questions regarding the integrity of research or other scholarly or creative activity. All allegations of misconduct will be subject to an inquiry to determine if sufficient evidence exists to warrant an investigation. An investigation is the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

The name of the complainant as well as the person accused (respondent) will be held in strictest confidence to the extent permitted by law. The respondent has the right to know the name of the complainant.

**Initiation of an Inquiry** To initiate an inquiry, an allegation of misconduct must be made in writing, signed by the complainant, and delivered to the Vice President for Academic Affairs (VPAA).

If the VPAA has a real or apparent conflict of interest with the case, the investigation will be directed by another administrator appointed by the President.

The VPAA or alternate will direct the RIO to conduct an inquiry into the allegations. Within 30 days the RIO will provide a written recommendation to the VPAA as to the merit of the allegation specifically recommending whether or not to conduct an investigation.

**Notification to the Respondent**

1. Upon initiation of an inquiry, the RIO will notify the respondent in writing of the existence and nature of the complaint and the process that will follow.

2. The respondent will be given copies of all documentation that supports or negates the allegations.
3. The respondent will be invited to present a written response to the allegations.
4. If during the inquiry, the RIO believes it necessary to act to protect the health and safety of research subjects, patients, and/or students, such administrative action shall be taken by the VPAA based upon the recommendations of the RIO. If the inquiry involves a project funded by an agency of the Federal government (such as the National Institutes of Health or National Science Foundation), or other organization requiring the University to certify compliance with Federal policies and regulations concerning misconduct in science, the Office of Grants and Sponsored Research shall also be notified immediately, and the Office of Grants and Sponsored Research in turn shall immediately notify appropriate officials at the granting agency, and report on any action taken, if appropriate, if at any stage in the proceedings any of the following conditions exist.
  - A) There is an immediate health hazard involved;
  - B) There is an immediate need to protect Federal or other grantors funds or equipment;
  - C) There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates if any;
  - D) It is probable that the alleged incident is going to be reported publicly;
  - E) There is a reasonable indication of possible criminal violation. In that instance, the Institution must notify the grantor agency within 24 hours of obtaining that information.

**Resolution of the Inquiry**

Upon completion of the inquiry the RIO will provide a recommendation to the VPAA as to the merits of the allegation. The VPAA will decide whether to proceed to the investigation phase. In either case the respondent will be notified as to the VPAA's decision.

**Initiation of an Investigation**

If the VPAA decides that the allegation has sufficient merit, then the case will move to the investigation phase.

If the VPAA has a real or apparent conflict of interest with the case, the investigation will be directed by another administrator appointed by the President.

**Notification to the Respondent**

1. Upon initiation of an investigation, the VPAA will notify the respondent in writing of the existence and nature of the complaint and the process that will follow. A copy of the allegation, a copy of this policy, and a list of the membership of the Investigation Committee on Research and Scholarly Misconduct shall be attached to the notification. The respondent has the right to identify, in advance, any real or potential conflict of interest among the Committee members, and to request that the VPAA or designee replace members so identified. If the VPAA or designee determines that replacement is necessary, the appointment of replacement members shall be made using the same procedure and criteria as those used for appointment of the original members.
2. The respondent will be given copies of all documentation that supports or negates the allegations.
3. The respondent will be invited to present a written response to the allegations; this response will become a part of the case file maintained by the VPAA or designee.

**Timeliness**

The investigation of a case of alleged misconduct must be completed and a written report of the findings filed with the VPAA or designee by the Investigation Committee within 120 days of initiation. If the Committee anticipates that the established deadline cannot be met due to circumstances which clearly warrant a longer period, a report citing the reasons for the delay and progress to date will be filed with the VPAA or his/her designee, and the respondent and the complainant will be informed of the need for additional time. This report shall be made part of the record of the investigation.

If there are plans to terminate the investigation for any reason prior to completion, and if the alleged misconduct relates to a project funded by an agency of the Federal government, or other

organization requiring the University to certify compliance with Federal policies and regulations concerning misconduct in science, a report of such planned termination, including a description of the reasons for such termination, shall be made to the appropriate office of the funding agency (e.g. the Office of Scientific Integrity at National Institutes of Health), which will in turn decide whether further investigation should be undertaken.

### **The Investigation Process**

The investigation process will be handled by the Committee on Research and Scholarly Misconduct.

1. The investigation will include examination of all pertinent information. Summaries of interviews should be prepared, provided to the interviewed persons for comment or revision, and included as part of the investigation file.
2. Written notification of hearing dates and copies of all relevant documents, as judged appropriate by the Committee, will be made available to the respondent in advance of scheduled meetings.
3. The committee may call upon additional expertise as necessary, either from the campus or from other sources, to reach its determination.
4. Information, records, and other pertinent data shall be supplied to the committee upon its written request.
5. To ensure the safety and security of any written documents associated with the investigation, such documents shall remain in the control of the Vice President for Academic Affairs at all times, except as otherwise provided in this policy.
  - a. No reproduction of any kind shall be permitted of these materials except as otherwise provided by these procedures.
  - b. The VPAA's office shall maintain a log of individuals reviewing the materials, including dates and times of arrival and departure for such reviews.
6. The committee shall maintain a complete record of its proceedings, including copies of all documents considered as evidence, transcripts of interviews conducted, and minutes of the committee and a record of all votes cast with the understanding that these may be subject to the Open Records Act and/or subpoena by counsel. The records of the investigation shall be maintained in a secure manner for at least three years

- after the termination of the investigation. If the alleged misconduct relates to a project funded by an agency of the Federal government (such as the National Institutes of Health or National Science Foundation), or other organization requiring the University to certify compliance with Federal policies and regulations concerning misconduct in science, copies of the records of the investigation shall, upon request, be provided to appropriate, authorized officials of the funding agency.
7. The committee may consult with or request an opinion from APSU Counsel in the course of their proceedings.
  8. If, during the investigation, additional information emerges that may justify broadening the scope of the investigation beyond the initial allegations, the respondent shall be informed in writing. Materials neither available nor obtainable at the outset of the action that are subsequently obtained must be provided to the committee in a timely manner.
  9. If, during the investigation, the Committee believes it necessary to act to protect the health and safety of research subjects, patients, and/or students, such administrative action shall be taken by the VPAA based upon the recommendations of the Committee. If the investigation involves a project funded by an agency of the Federal government (such as the National Institutes of Health or National Science Foundation), or other organization requiring the University to certify compliance with Federal policies and regulations concerning misconduct in science, the Office of Grants and Sponsored Research shall also be notified immediately, and the Office of Grants and Sponsored Research in turn shall immediately notify appropriate officials at the granting agency, and report on any action taken, if appropriate, if at any stage in the proceedings any of the following conditions exist.
    - a. There is an immediate health hazard involved;
    - b. There is an immediate need to protect Federal or other grantors funds or equipment;
    - c. There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates if any;
    - d. It is probable that the alleged incident is going to be reported publicly;

- e. There is a reasonable indication of possible criminal violation. In that instance, the Institution must notify the grantor agency within 24 hours of obtaining that information.
10. The respondent shall have an opportunity to address, in writing, the charges and evidence. The respondent shall be provided with all necessary information in a timely manner to facilitate the preparation of a response and ensure an opportunity to address the charges and the supporting information in detail.
11. The respondent will be given the opportunity to appear and speak for him/herself in person before the Committee. He or she may, at his/her own expense, be accompanied by and confer with legal counsel at hearings. The university counsel will be present at any meeting(s) with the respondent's legal counsel.
12. The hearings of the Committee shall be closed to all but the Committee members, the respondent (and respondent's legal counsel, if any), the university legal counsel, and individuals being interviewed as part of the Committee's proceedings.
13. An investigation should ordinarily be completed within 120 days of its initiation. This includes conducting the investigation, preparing the report of the findings, making that report available for comments by the respondent, and submitting the report to the appropriate government funding agencies when required.
14. If there are plans to terminate the investigation for any reason prior to completion, and if the alleged misconduct relates to a project funded by an agency of the Federal government, or other organization requiring the University to certify compliance with Federal policies and regulations concerning misconduct in science, a report of such planned termination, including a description of the reasons for such termination, shall be made to the appropriate office of the funding agency (e.g. the Office of Scientific Integrity at National Institutes of Health), which will in turn decide whether further investigation should be undertaken.
15. When the hearings have been completed, the Committee shall prepare a written report of its findings and submit it to the VPAA. The report shall contain a ruling of the majority of the committee. The ruling shall be one or more of the following:
  - a. Reasonable belief that misconduct has occurred,

- b. Reasonable belief that a possible criminal violation has occurred,
- c. No reasonable belief that misconduct has occurred,
- d. Unjustified, good faith allegation,
- e. Unjustified allegation, not made in good faith.

Recommendations for sanctions from the Committee are advisory.

16. Dissenting voters are encouraged to present a minority report. Abstentions in voting shall be permitted only for good cause, which must be presented in writing and become a part of the permanent record along with the majority and minority reports.

### **Notification of Findings**

1. The Committee will submit a written final report to the VPAA containing:
  - a) the findings,
  - b) the basis of the findings,
  - c) a description of the process,
  - d) a summary of the views of the respondent,
  - e) any recommendations for sanctions(if provided).
2. The VPAA will send the report to the respondent by certified mail with return receipt requested. The respondent may comment in writing upon the report within 30 calendar days of the date of the report.
3. The Office of Grants and Sponsored Research will be notified of the final outcome of the investigation when appropriate.

### **Institutional Actions**

- A. Presence of Fraud or Misconduct
  1. If a ruling of misconduct is the outcome, then the VPAA shall initiate disciplinary and/or administrative action consistent with the respondent's relationship with the University and with University rules and regulations.
  2. A statement of the ruling of the Committee and a record of any possible sanctions of the VPAA shall be placed in the respondent's permanent personnel file.
- B. Absence of Fraud or Misconduct

1. All research sponsors and others initially informed of the investigation shall be informed in writing that allegations were not supported.
2. In publicizing the finding of no fraud or misconduct, the University will determine, in consultation with the respondent, whether public announcements will be harmful or beneficial in restoring any reputations that may have been lost.
3. A statement exonerating the respondent of misconduct or fraud shall be placed in the respondent's permanent personnel file.

#### C. Unjustified Allegations

1. If the Committee determines the allegations to be unjustified and maliciously motivated, it can recommend that appropriate disciplinary actions be taken against the complainant.
2. If the allegations are found to be unjustified but were submitted in good faith, no further formal action will be taken.

E. After an inquiry and/or an investigation, the Institution shall undertake diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed, and also undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

F. The Institution shall take interim administrative actions, as appropriate, to protect Federal funds and ensure that the purpose of Federal financial assistance is carried out.

### **The Right to Appeal**

The respondent may appeal the findings of the Investigative Committee and/or any sanctions.

- A. A written statement of the grounds for the appeal must be submitted to the President of the University within 30 days of written notification of the results of the investigation. Grounds for appeal may include, but are not limited to:

1. Newly discovered evidence;

2. Disciplinary actions not in keeping with the findings, University policies and procedures, or the respondent's relationship with the University;
3. Newly discovered conflict of interest among those involved in the investigation.

Upon receipt of a written appeal, the President shall review the evidence and make a determination as to the findings and sanctions or reopen the investigation. The President's decision will be final and binding on all University parties and will be conveyed to all involved parties in a timely fashion.

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**Revision Dates**

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APSU Policy 2:019 (previously 2:022) – Rev.: January 4, 2017  
APSU Policy 2:022 (supersedes 99:013) – Rev.: October 8, 2012  
APSU Policy 2:022 – Issued: January 19, 1999

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**Subject Areas:**

Academic	Finance	General	Human Resources	Information Technology	Student Affairs
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**Approved**

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President: signature on file

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