MIDDLE TENNESSEE STATE UNIVERSITY

POLICIES AND PROCEDURES MANUAL

POLICY NO.: II:01:10 **DATE:** January 19, 2000

SUPERSEDES POLICY NO.: II:01:10 **DATED August 30, 1994**

SUBJECT: Misconduct in Scholarly Activities and Research

APPROVED: James E. Walker, President James E. Walker

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I. INTRODUCTION

Middle Tennessee State University affirms its adherence to the highest ethical standards of faculty conduct in research. This policy outlines and delineates procedures to be followed when an allegation of fraudulent conduct in research or scholarly activity is made against a member of the faculty, staff, or student body of Middle Tennessee State University.

II. POLICY

Misconduct in research or other scholarly activities is prohibited and allegations of such misconduct shall be investigated thoroughly and resolved promptly. Further, the University shall take such action as may be necessary to ensure the integrity of research or scholarly work, the rights and interests of research subjects and the public, and the observance of legal requirements or responsibilities. Violation of University policy shall be considered to be a serious breach of trust, and may result in the imposition of disciplinary sanctions. All disciplinary sanctions will follow applicable University policies.

III. DEFINITIONS

Misconduct is defined as (1) fabrication, falsification, plagiarism or other serious deviation from accepted practices in proposing, carrying out, or reporting results from research or other scholarly activities; or (2) material failure to comply with applicable federal requirements for protection of researchers, human subjects, or the public, or for ensuring the welfare of laboratory animals; or (3) failure to comply with other applicable legal requirements governing research or other scholarly activities. It does not include disputes regarding routine, non-creative works of authorship, honest error or honest differences in interpretations or judgements of data, and is not intended to resolve bona fide scientific disagreement or debate.

Allegation: any written or oral statement or other indication of possible misconduct in research or scholarship.

Complainant: the person who makes the allegation of scholarly or scientific misconduct.

Good faith allegation: an allegation made with honest belief that scientific and scholarly misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

Inquiry: information gathering and initial fact-finding to determine whether the allegation or apparent instance of misconduct warrants a formal investigation. An inquiry is not a formal hearing. It is intended to separate serious allegations deserving further investigation from trivial, frivolous, unjustified, or clearly mistaken allegations, or from situations that clearly do not involved serious academic misconduct and which may be pursued through other administrative channels.

Investigation: the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and, if so, to determine the responsible person(s) and the seriousness of the misconduct.

Respondent: the person against whom an allegation of scholarly or scientific misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

IV. APPLICABILITY

This policy applies to all faculty, staff and students engaged in research and other scholarly activity, including without limitation graduate student assistants, undergraduate students engaged in research or other scholarly activity, postdoctoral fellows and research associates, visiting faculty or staff, adjunct and part-time faculty and staff when performing university work, faculty on non-instructional assignment, and faculty or staff on leave without pay.

The policy applies to students only when they are employed by the University or involved in conduct of externally sponsored research even if they are not paid employees of the University. It does not apply to students conducting research and scholarly activity as part of their degree requirements unless the research or scholarly activity is supported by an external sponsor. Allegations of academic misconduct by a student not included in this policy are to be examined using the procedures specified in the University policy concerning academic misconduct by students as outlined in the general regulations on student conduct. Examination of a student's conduct under the procedures described in this policy does not exclude additional application of the student academic misconduct policy to the same student.

The procedures set forth in this policy may be applied even if the subject of the allegations is no longer employed by the University.

V. PROCEDURE

A. Initial Reporting and Review of Allegations of Scientific and Scholarly Misconduct

Any allegation of misconduct in research or scholarship should first be addressed, preferably in writing, to the appropriate department chair, or equivalent supervisor. If the department chair is the subject of the allegation, or is the person making the allegation, or the allegation involves a conflict of interest for the chair, or there are members of multiple departments involved, then the allegation should be made to the Dean or Provost and Vice President for Academic Affairs (Provost) who will conduct the initial review.

The initial reviewer (typically the chair) must immediately report, in writing, the nature of the allegation to the appropriate supervisor up to the level of the Vice President of the division in which the allegation is made. The initial reviewer must also inform the accused (respondent) of the allegation and other indications of misconduct. The initial reviewer will review evidence related to the allegation and attempt to resolve the issue to the satisfaction of the complainant and the respondent. If resolution is obtained by the initial reviewer, he/she will send a report describing the evidence and recommending that the resolution be accepted to the Provost. If the Provost concurs with the recommendation she or he will recommend to the Vice President of the division (if applicable) in which the department is located that the case be closed. If the Vice President accepts the recommendation the case will be closed and the chair, complainant and respondent will be informed of the decision in writing. If the Provost and the Vice President are not satisfied that the review of the allegation by the initial reviewer has been adequate or that the resolution has been fairly achieved, the chair, complainant, and respondent will be so notified in writing and the Provost in consultation the appropriate dean and Vice President will conduct an inquiry to further review the allegation. The Provost will notify the president that an inquiry will be made and, if appropriate, solicit advice from the university or TBR legal counsel.

B. Conduct of the Inquiry

Upon receipt of the written allegation(s) of misconduct, the Dean in consultation with the Provost, or their respective designees, in consultation with the department chair of the area in which the respondent is primarily employed, shall conduct an inquiry If the person designated to conduct the inquiry does not have the necessary and appropriate technical expertise or background in the field in question, technical consultants (from within the University whenever possible) should also be appointed to assist in the inquiry. The inquiry must be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period (up to 30 additional days). The Dean will provide written notice to the respondent that an inquiry shall be conducted as to specified allegation(s) of misconduct. Precautions against real or apparent conflict of interest shall be taken, including, if necessary, referral by the Provost to another University officer or third party.

The privacy of the respondent and the complainant, and the confidentiality of information shall be protected to the maximum extent possible.

If the inquiry takes longer than 60 days to complete, the record of inquiry shall include documentation of the reasons for exceeding the 60-day period.

A written report shall be prepared that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the inquiry. The respondent(s) shall be given a copy of the report of inquiry with the opportunity to comment on the report. If the respondent(s) comment on that report, their comments may be made part of the record.

Documentation in sufficient detail to permit a later assessment, if necessary, of the reasons for determining that an investigation was not warranted shall be maintained in accordance with TBR Guidelines, but in no instance for a period of less than three years by the Provost and shall be made available upon request to any involved Federal agencies.

Diligent efforts should be undertaken, as appropriate to restore the reputation of the respondent when allegations are not confirmed.

Diligent efforts should also be undertaken to protect the positions and reputations of those who, in good faith, make allegations of misconduct.

C. Conduct of the Investigation

If it is determined from the inquiry that the misconduct allegation(s) warrant further investigation, the Steering Committee of the Faculty Senate, in consultation with the Provost, within 30 days of the determination shall;

(a) appoint an ad hoc investigation panel composed as described in" Selection of the Pool.
(b) refer the misconduct charge to the investigation panel.

The Provost will take such interim action as may be necessary to ensure the integrity of research or other scholarly work, the rights and interests of research subjects and the public, and the observance of legal requirements or responsibilities, and provide written notification to the complainant and the respondent of the initiation of the investigation and of the misconduct allegation(s) to be investigated.

a. Selection of the Pool

The Faculty Senate Steering Committee and the Provost will appoint a Pool of fifteen persons from which a five-person Investigation Panel will be selected. The Steering committee will appoint ten (10) members of the Pool, including at least one, but not more than three, persons from each undergraduate college. The Provost and Vice President for Academic Affairs will select the five remaining members.

Members of the Pool must be full-time University faculty who are not department chairs or do not have administrative appointments. The Faculty Senate President, President-Elect, and Immediate Past President may not be members of the Pool. The Pool must have appropriate representation of ethnicity and gender.

b. Selection of the Panel

The Panel shall consist of at least five tenured University faculty members, each of whom should have no conflict of interest and be competent, in the judgment of the Provost and Dean, to evaluate the questions before the Panel. External scholars or persons with relevant expertise may be consulted by the Panel where warranted by the nature of the field or by the nature of the allegation(s).

The President of the Faculty Senate and the respondent will alternately select five persons from the Pool to serve as the investigative panel. The Senate President will make the first selection. The respondent will have one pre-emptive challenge. Because of the potential for conflicts of interest, no close personal friends or co-authors/co-presenters with the respondent may be members of the panel. The Senate President will inform the panel of the identity of the respondent and excuse from the panel anyone so identified. Panel members will be asked to remove themselves if they believe there are any other factors that would preclude their making an impartial assessment. If conflict of interest or other circumstances prevent the appointment of a full Panel from the Pool, the Senate Steering Committee should appoint additional persons to the pool so that the panel selection process can be completed. Members of the panel will serve until a case reaches final resolution.

The Panel shall initiate and conduct a prompt and thorough investigation in order to ascertain the facts of the case and to determine whether the respondent has violated University policy. The Panel shall provide the respondent the opportunity to be heard by the Panel, through presentation of statements and/or documents with respect to the misconduct allegation(s), as the respondent prefers.

The investigation normally will include examination of all documentation, including but not necessarily limited to relevant research data and proposals, publications, correspondence, and memoranda of telephone calls. Whenever possible, interviews should be conducted of all individuals involved, including the respondent and the complainant(s), as well as other individuals who might have information regarding key aspects of the allegations; complete summaries of these interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the record.

Upon conclusion of the investigation, the Panel shall prepare a preliminary report setting forth its findings with respect to the misconduct allegation(s) and the grounds on which such findings were based. A copy of the preliminary report shall be provided to the respondent, who shall be permitted to present a written response to said report within fourteen days. Upon expiration of the fourteen-day response period, the Panel shall prepare a final report.

If a majority of the Panel finds that the individual has violated University policy, it shall recommend an appropriate course of action to the Dean and to the Provost, which may include disciplinary sanctions and which shall include adequate steps to ensure that the University meets its obligations, if any, to third parties affected by the violation; these third parties shall include co-investigators and co-authors, granting agencies and other research sponsors, professional journals and relevant clients.

The Dean shall consider the Panel's findings and recommendations, and submit recommendations to the Provost. The Provost will prepare a written decision upholding or rejecting, in whole or in part, the findings and recommendations in the Panel's final report:

If the Provost finds University policy to have been violated, he or she shall;
(a) take all appropriate actions to ensure that the University meets its obligations to all parties affected by the violation
(b) will notify all affected parties of actions taken; and
(c) all disciplinary actions will be in accordance with University and TBR policies.

If the Provost finds University policy not to have been violated, either at the inquiry stage or after a full investigation, these proceedings will be closed and the respondent and the complainant so notified in writing.

Diligent efforts should be undertaken, as appropriate, to restore the reputations of the respondent when allegations are not confirmed.

Diligent efforts should be undertaken to protect the positions and reputations of those who, in good faith, make allegations of misconduct.

Throughout these proceedings, the privacy of the respondent and the complainant, and the confidentiality of the information related to the proceedings shall be protected to the maximum extent possible.

If an investigation is undertaken pursuant to this policy, the investigation should normally be concluded and the Provost's decision reached within 120 days from the initiation of the investigation.

VI. OTHER ADMINISTRATIVE RESPONSIBILITIES

During an inquiry or an investigation, the Provost shall take all necessary steps to protect government or industrial research funds and insure that the purpose of the Federal and industrial support is being carried out.

The Provost shall take steps to notify, and keep informed, research sponsors in compliance with applicable laws, regulations and agreements. In particular, research sponsors shall be:

(a) informed immediately in writing if an initial inquiry supports a formal investigation;
(b) kept informed during such a formal investigation;
(c) notified immediately, or as required during an inquiry or investigation;

(i) if the seriousness of apparent misconduct warrants,
(ii) if immediate health hazards are involved,
(iii) if the research sponsor's resources, reputation, equipment, or other interests require protection,
(iv) if Federal action may be needed to protect the interest of a subject of the investigation or of others potentially affected,
(v) if the scientific community or the public should be informed, or
(vi) if there is reasonable indication of possible criminal violation, in which event notification must be made within 24 hours of obtaining that information.

If the oversight agency is the Department of Health and Human Services, the Director of the Office of Research Integrity (ORI) shall be notified within 24 hours of obtaining any reasonable indications of possible criminal violations.

If an investigation cannot be completed within 120 days, a written request for an extension must be submitted to ORI including an explanation for the delay, an interim report on the progress to date, an outline of what remains to be done, and an estimated date of completion.

If an inquiry or an investigation is terminated prior to completion, a written report of the termination, including a description of the reasons for the termination, shall be made to the Director of ORI.

All documentation substantiating an investigative finding will be maintained by the Provost's Office and be made available to the Director of ORI.

Where applicable, a final report including all documentation substantiating the findings hereunder shall be made available to the Federal agency involved, and in the case of Public Health Service, to the Director of ORI within 120 days of the investigation. The final report shall include a description of the policies and procedures under which the investigation was conducted; how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings; and include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions taken by the institution.