

# North Dakota State University

## Policy Manual

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### SECTION 326

#### ACADEMIC MISCONDUCT

SOURCE: NDSU President  
NDSU Faculty Senate

#### 1. PHILOSOPHY& PURPOSE

- 1.1 North Dakota State University is committed to upholding the highest standards of integrity of its endeavors in the pursuit of academic activities including research, instruction, and service. The University will promote an open and honest atmosphere in reviewing and reporting possible academic misconduct.
- 1.2 Scholarly inquiry creates the expectation for strict integrity in its pursuit. Integrity is defined as a commitment to intellectual honesty, and personal responsibility. As a public institution engaged in research, NDSU has an obligation to ensure public trust and confidence in our academic programs and publications. NDSU is committed to creating an environment which promotes responsible conduct that embraces attitudes of excellence, trust, and lawfulness in all our endeavors. It is essential to create this environment in order to maintain academic integrity, which in turn will promote academic excellence leading to reliable and accurate research results. [1](#) Because misconduct in scholarly inquiry, including the improper expenditure of funds, threatens the confidence in the academic endeavor, it is the responsibility of the University to foster an academic environment that discourages misconduct in all endeavors of scholarly activity and to develop policies and procedures to deal forthrightly with possible misconduct associated with scholarly activity
- 1.3 These policies and procedures deal with academic misconduct and define a process to report, review, investigate, and resolve, allegations of academic misconduct. They are directed toward governing behaviors to maintain integrity in the pursuit of scholarly, academic activities, and they are consistent with the principle of self-regulation in maintaining integrity in scholarly inquiry.[2](#)

#### 2. APPLICABILITY

- 2.1 These policies are applicable to all persons employed at NDSU and associated with NDSU through academic activities. These would include, but are not limited to faculty, adjunct faculty, research professors, lecturers, collaborators, staff, technicians, post-doctoral fellows, graduate, and undergraduate students, and volunteer assistants. However, allegations against graduate and undergraduate students which are course related will be handled under [NDSU Policy 335: Code of Academic Responsibility and Conduct](#).
- 2.2 While this policy deals with internal allegations, any NDSU employee wanting to charge misconduct against an individual(s) outside the University must have discussed the allegations with the Department Chair, Dean and Provost before proceeding with such allegations.

#### 3. DEFINITIONS

- 3.1 **Academic or scientific misconduct** shall mean fabrication, falsification, plagiarism, misrepresentation of sources, breach of confidentiality, or other practices, including fiscal impropriety, that seriously deviate from those that are commonly accepted within the discipline for proposing, for conducting, or reporting research; or material failure to comply with a sponsor's requirements that uniquely relate to the conduct of the research. It does not include honest error, or honest differences in interpretations or judgments of data.
- 3.2 **Allegations** shall mean any written or oral accusation by any University official or other Complainant, from inside or outside of NDSU, of possible misconduct that is forwarded to the Office of the Provost.
- 3.3 **Complainant** means any person who makes a formal allegation of research or scholarly misconduct under this Policy.
- 3.4 **Fabrication** is making up data or results and recording or reporting them.
- 3.5 **Falsification** is manipulation of research materials, equipment, processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
- 3.6 **Inquiry** shall mean informal information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
- 3.7 **Investigation** shall mean the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.
- 3.8 **Plagiarism** shall mean taking over ideas, methods, or written words of another without acknowledgment of and with the intention that they be credited as the work of the deceiver. Different academic disciplines may have their own separate definition which may add additional elements that need to be taken into consideration in an allegation of plagiarism.
- 3.9 **Respondent** shall refer to the accused or the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.
- 3.10 **Scholarly inquiry, creative activity, and research** shall be considered synonymous terms.

#### 4. PRINCIPLES

- 4.1 Due to the wide variety of endeavors of scholarly activity, no one set of guidelines can cover all situations. Also, because of the seriousness of the nature of this subject, several basic principles must be used to guide the processes.
- 4.2 Allegation(s) must receive immediate, appropriate, thorough, and impartial consideration.
- 4.3 The Complainant who in good faith reports apparent academic misconduct shall be protected from recrimination. Good faith allegations are those that are made with the honest belief in the truth of the allegation based on the information the Complainant had reasonable access to at the time of the allegation.
- 4.4 The Respondent, Complainant, witnesses, and committee members must be afforded confidential treatment during the entire process to the extent reasonably possible. Disclosure of the charges and evidence under this policy will be made only as specified in the regulations of the sponsoring

agency or as required by the North Dakota Open Records Act. Any violation of this rule is also considered a matter for disciplinary action. Further, the Respondent must be afforded confidential treatment to the extent reasonably possible while being given an opportunity to respond to the allegations and provide a defense during the Inquiry or Investigation phases. A confidentiality agreement can be required.

- 4.5 From receipt of the initial allegation to the completion of the investigation, every effort will be made to obtain and secure evidence that will be directly applicable to the case. All evidence must be carefully weighed to determine whether an allegation has been made in good faith or malice.
- 4.6 In order to determine misconduct, NDSU must find (1) that there was a significant departure from accepted practices of the relevant academic or professional community; (2) it was committed intentionally, knowingly, or recklessly; and (3) the allegation must be proven by a preponderance (greater than 50%) of the evidence.
- 4.7 If allegations of apparent academic misconduct are shown to be unfounded and have been made with the malicious intent of destroying a career and reputation, the evidence of this fabrication is to be presented to the Provost for appropriate examination and possible disciplinary action.
  - 4.7.1 Malicious allegations to harm or harass other individuals will not be tolerated by the University, nor will retaliation against the Respondent, Complainant, witnesses, or inquiry or investigative committee members. Further actions against Complainants who have acted in bad faith may be taken under NDSU policies that apply to employment and termination procedures. Actions that may be taken by NDSU could include, but are not limited to, termination of employment or expulsion.
- 4.8 Any University action imposing sanctions must comply with the procedural requirements of the applicable personnel or student policies (see Policies [220](#), [335](#), [350.3](#), or [601](#)).
- 4.9 Challenges against a member of the Academic Integrity Committee for a conflict of interest shall be handled by the committee first and then, if the matter is not resolved, by the President of the Faculty Senate.

## 5. ACADEMIC MISCONDUCT PROCEDURES

In dealing with academic misconduct allegations, NDSU will follow a three phase process: (1) Phase I - receipt of the allegation; (2) Phase II - an immediate inquiry of the allegation; and (3) Phase III - if warranted, an investigation of the allegation which may lead, where applicable, to recommendations for appropriate sanctions and reporting. Actual sanctions and appeals will be considered separately and will be handled through other administrative processes.

### 6. PHASE I: RECEIPT OF ALLEGATION

- 6.1 Initially, the Complainant should report the allegation and provide evidence to the university official who is the immediate supervisor of the Respondent. The person receiving the allegation is hereafter referred to as the receiver of the allegation.
  - 6.1.1 Any National or Federal agency involved could also be notified. Most agencies will not investigate initially and will allow NDSU to proceed as the primary investigating body. The funding agency will review the submitted reports to determine if further actions need to be taken. Federal agencies expect each institution to handle these proceedings and will only

take charge if there is an immediate need to handle the case themselves.

- 6.2 Upon receipt of an allegation, the receiver of the allegation must immediately inform the Provost (or specified designee) formally, in writing of the nature of the allegation. The Provost will inform the President.
- 6.3 Allegations of academic misconduct by a Complainant (other than the University acting through its administration) must normally be received within six years from the time when alleged academic misconduct occurred. Other exceptions include: (1) the Respondent continues or renews any incident of alleged research misconduct that occurred outside the six-year limit through the citation, republication or other use for the potential benefit of the Respondent of the research record that is the subject of the allegation; (2) NDSU, following consultation with appropriate agencies, determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public; or (3) there is an allegation of fraud which prevented the discovery of the alleged misconduct. Allegations older than six years will normally not be accepted.

## 7. PHASE II: INQUIRY

- 7.1 Upon receipt of an allegation, the Provost will prepare a statement of allegation which identifies the Complainant, and notifies the Respondent, the appropriate department chair(s), and academic dean(s) of the allegation with available evidence.
- 7.2 The Respondent and Complainant will be offered initial consultation at the time of the receipt of the allegation to assist all parties in understanding the extent of this policy and procedures, and the potential and real consequences. They shall be provided copies or informed of the location of relevant policies and/or rules.
- 7.3 The Provost shall appoint an inquiry committee of three persons consisting of non-administrative, tenured faculty with the rank of professor (emeritus and emerita professors are eligible). Members of the committee may be external to the University and non-faculty members may be appointed if a specific case warrants their inclusion to review the allegation(s).
  - 7.3.1 The inquiry committee will determine if there is sufficient basis to conduct an investigation based on whether (1) the allegation falls within the definition of academic misconduct as defined above; (2) the allegation is sufficiently credible; and (3) the allegation is specific enough so that potential evidence of academic misconduct may be identified. "Sufficient basis" means that there is enough evidence that could be adequate to establish a violation if proven.
  - 7.3.2 Interviews must be conducted, where possible, with both the Respondent and the Complainant and any other persons who may have information relevant to the allegation and purpose of inquiry. The Complainant and the Respondent must comply with appropriate requests by the inquiry committee for documents and other relevant evidence.
  - 7.3.3 The committee may seek an opinion by a recognized authority in the Respondent's field.
  - 7.3.4 Upon completion of the inquiry, the committee will prepare a report which shall include: (1) the name and position of the Respondent(s); (2) a description of the allegation of misconduct; (3) list of persons interviewed; (4) a summary of the evidence; (5) the conclusions of the inquiry; (6) a rationale for the recommendation that the alleged misconduct did or did not warrant an investigation; (7) any comments by the Complainant

and Respondent; and (8) identification of relevant grants or other funding involved.

- 7.4 The Complainant and Respondent shall be given a complete copy of the report. Each will be given 10 working days to respond to the report and their comments will become part of the record.
- 7.5 The inquiry report will be completed and submitted to the Office of the Provost within 60 calendar days from the receipt of the initial allegation, unless circumstances which can be documented indicate reasons for exceeding this 60 day period.
- 7.6 If the Provost determines that there is no basis to conduct an investigation, a copy of the inquiry report shall be maintained for a period of seven years in the Office of the Provost. This is to permit a later, independent assessment of the reasons for determining that an investigation was not warranted should this be requested by an appropriate agency.
- 7.7 Seven years after the completion of the inquiry, all documentation shall be destroyed.
- 7.8 If, at any time, the documentation is requested by any party, the Respondent shall be notified.
- 7.9 All work of those involved should, to the extent possible, remain confidential. Breaches of confidentiality may be subject to appropriate sanctions.
- 7.10 The Complainant can appeal a decision not to conduct an inquiry to the Committee on Academic Integrity within five (5) working days of receiving notice that an inquiry is not warranted.

## 8. PHASE III: INVESTIGATION

- 8.1 If the Provost determines that the findings from the inquiry provide sufficient basis for conducting an investigation, the investigation must be initiated within a thirty (calendar) day period after written notification to the Respondent that there will be an investigation. On or before the initiation of the investigation, NDSU will notify all applicable agencies as required by regulations.
- 8.2 The investigation will be conducted by the standing committee of the Faculty Senate, the Committee on Academic Integrity.  
(<http://senate.ndsu.edu/fileadmin/facultysenate/docs/constitution.pdf>)
- 8.3 The Provost Affairs shall forward the inquiry report to the Committee on Academic Integrity (Investigation Committee) which shall investigate the allegations in substantial compliance with all Federal Regulations.
- 8.4 The Investigation Committee shall comply with the following guidelines:
  - 8.4.1 Respondent must be notified in writing that an investigation is being conducted, must be interviewed by the Investigation Committee, and has the right to call any witnesses or produce any evidence in defense. In addition, the Respondent has the right to have an attorney accompany him/her/them to the interview. If an attorney for the Respondent is present, the Investigation Committee may request that the University provide legal counsel to assist it as well.
  - 8.4.2 The Investigation Committee may request, and must use diligent efforts to secure, any evidence considered necessary to conduct a complete investigation of the allegation. Whenever possible, interviews should be conducted of all individuals involved including the Respondent and the Complainant as well as other individuals who might have information regarding key aspects of the allegations. Because of the possible specialized nature of the

evidence to be investigated, the Committee may seek advice from experts within or from outside the University. Complete summaries of these interviews should be prepared and provided to the interviewed person(s) for comment and shall be included as part of the investigation file and furnished to the Respondent.

- 8.4.3 The Investigation Committee will deliberate and reach its conclusions and write its final report in executive session. Further, the Investigation Committee must prepare and maintain all documentation to substantiate its findings.
- 8.4.4 The investigation by the Investigation Committee is to remain confidential unless disclosure is required by the North Dakota Open Records Act or by the sponsor's guidelines.
- 8.5 If it is determined that the allegations of misconduct are groundless, a report with supporting documentation shall be forwarded to the Office of the Provost to be retained appropriately for a period of seven years.
- 8.6 If the allegations are substantiated by a preponderance (greater than 50%) of the evidence, the Investigation Committee shall forward the report to the Provost and the President with recommendations for appropriate disciplinary action (sanctions).
- 8.7 The Respondent and Complainant shall be given a complete copy of the report. Each will be given ten (10) calendar days to respond to the report and their comments will become part of the record.
- 8.8 All persons and agencies involved in the investigation shall be notified of the conclusion. A copy of all documents shall be furnished to the Respondent and the Complainant. If the documents are requested by any party, the Respondent shall be notified.
- 8.9 In the case of a federal grant, a final report (in substantial compliance with all Federal regulations) prepared by the Provost describing policies and procedures under which the investigation was conducted, the nature of the allegations, how information was obtained, all persons interviewed with text or summary of interviews, the findings, the basis for the final decision, and a description of disciplinary action taken by the institution, must be sent to the appropriate agency. [3](#)
- 8.10 It shall be the responsibility of the Provost to communicate the results of the investigation to collaborators, journals, publishers, professional societies, licensing agencies, and sponsoring agencies with whom the accused has had professional contact as appropriate.
- 8.11 The investigation should ordinarily be completed within 120 calendar days of its initiation. If it cannot be completed within that time, then a request to the Office of Research Integrity (ORI) (or other applicable agency(ies)), will be made by the Provost to extend the time, and documentation for the reasons for exceeding this period must be made available in the report.

## **9. SPECIAL REPORTING REQUIREMENTS**

- 9.1 Normally, the inquiry or investigation will be conducted in such a manner as to protect the privacy/confidentiality of all involved.
- 9.2 However, if at any stage of the inquiry or investigation, any of the following conditions exist, there must be immediate notification to the sponsoring agency or other affected parties:
  - 9.2.1 there is an immediate health safety risk or immediate need to protect human or animal subjects;

- 9.2.2 research activities should be suspended;
- 9.2.3 there is an immediate need to protect agency funds, equipment, or the integrity of the research process;
- 9.2.4 there is an immediate need to protect the interests of the person(s) making the allegation or the individuals who are subject to the allegations as well as his/her co-investigators and associates;
- 9.2.5 it is probably that the alleged incident is going to be reported publicly;
- 9.2.6 there is reasonable indication of possible violation of civil or criminal law. In this instance, the institution must inform the appropriate sponsoring agency, if necessary, within 24 hours of obtaining that information; or
- 9.2.7 there is a reasonable belief that the research community or public should be informed.

## **10. SANCTIONS**

- 10.1 NDSU administration may implement specific sanctions congruent with the misconduct.
- 10.2 Sanctions resulting from academic misconduct may include, but are not limited to, termination of employment or student status, termination of current research activity, special prior review of future research activities, written reprimand, probation for a specific period of time, and/or suspension of rights and responsibilities.
- 10.3 In cases of students, recommendations for sanction or disciplinary actions will be forwarded to the Vice President for Student Affairs or the Graduate Dean to determine appropriate administration of any sanctions.
- 10.4 In deciding what final actions are appropriate when misconduct is found, NDSU officials should consider:
  - 10.4.1 the seriousness of the misconduct;
  - 10.4.2 the degree to which the misconduct was knowing, intentional, or reckless;
  - 10.4.3 whether the misconduct was an isolated event or part of a pattern of behavior;
  - 10.4.4 whether it had a significant impact on the research record, research subjects, other researchers, institutions, or the public welfare; and
  - 10.4.5 other relevant circumstances.

## **11. APPEALS**

- 11.1 Appeals of the Committee on Academic Integrity finding of misconduct will be handled through federal agencies of oversight where applicable or through NDSU's President's Office.
- 11.2 NDSU appeals must be made directly in writing to the President of NDSU within 30 days of the notice of determination by the Committee on Academic Integrity.

- 11.3 Review of the appeal is by the President. The President has the option to appoint a technical review committee for advice.
  - 11.4 NDSU may suspend an internal appeal until further determination by the agencies.
  - 11.5 NDSU appeals will be restricted to the evidence presented and will be limited to the University's failure to follow published procedures or arbitrary or capricious decision making.
  - 11.6 Upon review of the appeal, the determination made by the President of the University is final.
  - 11.7 Grievances and appeals to sanctions and disciplinary actions will be handled accordingly to the applicable polices. Faculty (policy [157](#), [350.3](#), [353](#)); Staff/employee (policy [157](#), [230](#), [231](#)); and Students (policy [601](#) and [335](#)).
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- 1. Integrity in Scientific Research, Institute of Medicine, National Research Council, (2002).
  - 2. See Office of Science and Technology's Research Misconduct Policy (2000) [http://www.ostp.gov/cs/federal\\_policy\\_on\\_research\\_misconduct](http://www.ostp.gov/cs/federal_policy_on_research_misconduct) In addition, these policies and procedures are necessary since the federal government requires that each entity applying for research grants or agreements under the Public Health Service must establish explicit, uniform policies and procedures for investigating and reporting instances of alleged or apparent misconduct involving research activities that are supported with funds made available under the Public Health Service Act. The appropriate acts providing authority are: 42 CFR Part 50, Section 493, Public Health Service Act, as amended, 99 Stat. 874-875, (42 u.s.c. 289b); Section 501(f), Public Health Service Act, as amended, 102 Stat. 4213 (42 u.s.c. 290aa(f)).
  - 3. For example, the Office of Research Integrity (ORI), in the Office of the Director of the National Institutes of Health.
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HISTORY:

New	May 14, 1990
Amended	April 1992
Amended	June 1995
Amended	December 2002
Amended	October 2003
Amended	October 2007
Amended	November 2008
Housekeeping	February 14, 2011hk
Housekeeping	September 2015