

WHITING SCHOOL OF ENGINEERING PROCEDURES FOR DEALING WITH ISSUES OF PROFESSIONAL MISCONDUCT

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1. Introduction

The Whiting School of Engineering is dedicated to truth in the pursuit of knowledge through research, to the transmission of knowledge through teaching, and to the application of technology to societal problems. Mutual respect and a dedication to these shared values among all faculty members, students, and staff are essential to the functioning of the School. Hence, it is important that the School to evidence or complaints of unacceptable behavior or unsatisfactory performance of professional duties.

The procedures outlined here were developed to provide a fair and orderly means of handling allegations of professional misconduct raised against members of the faculty and senior administrative staff of the Whiting School of Engineering (hereafter WSE). It is not intended that the proceedings be adversarial. Rather, all phases of the procedure should be conducted in the spirit of peer review. The University and WSE will not have legal counsel present routinely during investigative meetings. Likewise, no accused person and no accuser may appear before an internal review panel with legal counsel. The Whiting School firmly believes that duly constituted boards and committees of the faculty should be free to meet directly with a member of the academic community on the business of the School, without counsel present. However, any person accused of professional misconduct does have the right to consult with legal counsel before and after institutional proceedings.

Professional misconduct is intentional deception or dishonesty in the professional conduct of academic duties such as, but not limited to, teaching and research activities (other than scientific misconduct); unsatisfactory performance of professional responsibilities; behavior generally unacceptable to the academic community or the policies or codes of relevant professional societies (e.g., ASME, AIChE); failure to comply with published institutional policies or procedures (such as Conflict of Commitment and Conflict of Interest policies); or state or federal laws or regulations.

Allegations of research misconduct are addressed by a separate WSE policy entitled "Procedures for Dealing with Issues of Research Misconduct." If, in the course of investigating allegations of research misconduct, evidence of other professional misconduct is discovered, the ad hoc committee conducting the research misconduct investigation may carry out an investigation of the allegations of other professional misconduct.

2. Procedures

Faculty, students, and staff have an obligation to inform their supervisors if they suspect professional misconduct on the part of any member of the faculty or the senior administrative staff of WSE. The suspicion initially should be discussed with the relevant Department Chair or Center Director in confidence. (If an allegation concerns a Department Chair or Center Director, it should be reported directly to the Dean's Office; if the allegations concern the Dean, the case should be reported to the Provost's office. In such cases, the Provost shall fulfill the duties of the Dean in this policy.) The initial responsibility to review complaints or allegations and to attempt to resolve evidence or complaints of professional misconduct rests with the relevant Department Chair or Center Director. The method used for resolution may be an informal process with minimal record keeping requirements. If the Department Chair or Center Director is unable to resolve the complaint to the satisfaction of either the accused or the complainant, or the Department Chair or Center Director believes further resolution is required, the complaint may be submitted formally in writing to the Dean for review.

Upon receipt of a written charge of possible professional misconduct, the Dean and/or the Dean's designee will attempt to resolve the matter in a timely manner. A preliminary inquiry will be made to collect information to resolve the matter. After an appropriate inquiry, resolution by the Dean can take several forms:

- A. The Dean can find there is no basis for the charge and close the matter.
- B. The Dean can find the charge to be upheld. If the accused does not contest the charge, and the Dean considers the misconduct to represent a minor infraction, a letter of reprimand may be issued. The matter then will be closed when all stipulations (if any) of the reprimand are met.

C. The Dean can find the charge to be upheld and judge it to be a serious infraction. If the accused does not contest the findings, the Dean will decide on appropriate sanctions to be imposed as discussed below.

D. The Dean can find that the matter cannot be resolved satisfactorily through a preliminary inquiry, or the accused may contest the finding of the Dean's review. In either of these cases, an ad hoc committee will be appointed by the Dean to review the issue(s) through the proceedings outlined below.

E. The person(s) accused of professional misconduct will be informed of the allegations no later than the close of the inquiry. The Dean will determine whether and to what extent it is necessary or appropriate to involve the accused person in the inquiry at an earlier stage for clarification purposes.

At the Dean's discretion, the Dean may initiate a formal investigation into charges of professional misconduct and notify the Provost of the investigation. The Dean will appoint an ad hoc committee consisting of three or more faculty members from The Johns Hopkins University to conduct a careful review of the allegations. The accused and individuals who have information relevant to the charge will be given an opportunity to present information to the committee, either in writing or through an interview process. The Ad Hoc Committee will assemble evidence of the alleged professional misconduct. Data collection by the faculty panel is to be as objective, independent, unbiased, and complete as possible. The investigation should conclude whether professional misconduct occurred, as determined by the preponderance of evidence.

The Ad Hoc Committee will abide by the following procedures in the conduct of its formal investigation:

A. Each person accused of professional misconduct will be informed in writing of all of the charges raised and the fact that an investigation will take place. Except in those cases where the University is legally obligated to reveal them, the source(s) of the accusations will be held in confidence.

B. Each person accused will be notified of the identity of all members of the Ad Hoc Committee appointed by the Dean to conduct the investigation. The accused person may request that the Dean replace any member of the committee for reasons of potential bias or conflict of interest.

C. The Ad Hoc Committee will schedule a meeting (or meetings) at which the accused person may appear and provide testimony. Every effort will be made to schedule such meetings at a mutually convenient time. The initial meeting of the Ad Hoc Committee will not take place less than seven (7) days after the accused person receives the Committee's request to appear, unless the accused person waives the seven day requirement. The accused person may request a rescheduling of the meeting(s) with the Ad Hoc Committee for good cause. The accused person's failure or refusal to meet with the Ad Hoc Committee will not deter the progress of the investigation.

D. All relevant materials and documents for the investigation will be secured in the office of the Dean or another designated secure location at the earliest opportunity.

E. At the beginning of the investigation, the accused person will be given the chance to consult with an uninvolved senior faculty member of his/her choice (e.g., a former member of the Academic Council, who is knowledgeable about the proceedings). This person will serve as "ombudsman" to the accused person. The role of the ombudsman will be to offer advice and guidance regarding the procedural aspects of the investigation. The ombudsman will be appointed by the Dean, subject to approval by the accused person. The ombudsman may, if the accused wishes, accompany the accused person to meetings with investigating or adjudicating committees. The role of the ombudsman is limited to advising the accused person in the proceedings, and the ombudsman shall not participate as an advocate on behalf of the accused person. The accused may not bring legal counsel to meetings with investigating or adjudicating committees.

F. All meetings at which testimony is given to the Ad Hoc Committee will be recorded verbatim. Copies of the recordings may be furnished to the accused person upon request.

G. The accused person will be invited to present a written statement at the start and close of the Ad Hoc Committee's investigation. The accused person may suggest that the Committee interview certain individuals with relevant information concerning the matter under investigation and may suggest to the Committee any avenues of inquiry that he/she believes are likely to produce relevant evidence. However, the Committee will determine whether these individuals or lines of inquiry should be pursued. The accused person may request an opportunity to question the accuser at a Committee meeting before the Committee completes its final report. If, in the Dean's judgment, this would impose undue hardship on the individual(s) involved, the Dean may decline to honor the request for a face-to-face meeting.

H. The Ad Hoc Committee will prepare a written report of its findings and the significance assigned by the Committee to such findings, but will not include recommendations regarding disciplinary action. The report will be given to the Dean and a copy given to the accused person.

I. At any stage of the investigation, the Dean, after consultation with the Ad Hoc Committee, may take steps to notify other parties who, in the Dean's judgment, should be informed of the on-going investigation.

If the Ad Hoc Committee's investigation concludes that no professional misconduct has occurred, and if the Dean concurs with these findings, the matter will be closed. The Dean will notify the relevant parties, including the Department Chair or Center Director, of the finding of no professional misconduct. The Dean will retain the records of the investigation, including the findings of the Ad Hoc Committee, in a confidential, sequestered file.

If the Ad Hoc Committee finds the allegations of professional misconduct have been maliciously motivated or are based on fraudulent evidence, the Dean may take appropriate disciplinary against those responsible. If, in the judgment of the Ad Hoc Committee, the allegations, however incorrect or unsupported, were made in good faith, no retaliatory or disciplinary action will be taken against the accuser(s) and appropriate measures will be taken to protect the accuser(s) from retaliation.

If the Ad Hoc Committee's report to the Dean concludes that professional misconduct occurred, and the Dean concurs with the findings, the Dean will decide on appropriate sanctions to be imposed as discussed below. A copy of the investigation report may be provided to the accuser at the Dean's discretion.

3. Dean's Role

The Dean reviews the investigation report to determine whether disciplinary action is indicated, considers the existence of any extenuating or aggravating circumstances, and examines any rebuttals submitted by the faculty member alleged to have engaged in professional misconduct.

The accused person and the accuser(s) will be given an opportunity to submit written comments to the Dean. They may state their views on why the findings of the Ad Hoc Investigation Committee should be accepted or rejected in whole or in part. Comments on the Ad Hoc Committee's report by the accused or accuser should be received by the Dean within ten days of receipt of the report.

The Dean may accept or reject the Ad Hoc Investigation Committee's report, in whole or in part. At the conclusion of the review, the Dean may impose or recommend sanctions or remedial actions that the Dean considers appropriate to the circumstances concerning the professional misconduct. These sanctions may include, but are not limited to, the following:

- A. a letter of reprimand (with stipulations as appropriate) from the Dean to be placed in the accused person's personnel file;
- B. remedial training or counseling;
- C. restitution of misappropriated funds;
- D. suspension for a specified period of time, or other alteration in employment status;
- E. termination, whether the faculty member or senior staff member is appointed under a fixed term contract, or has tenure.

For cases involving senior staff or/and others who are not tenure track, any of these sanctions may be imposed by the Dean after consultation with the University General Counsel. However, for tenured or tenure-track faculty, any sanction that may negatively

affect a faculty member's tenured status or tenure process must be imposed by the Academic Council. This would include suspension, termination, or any other alteration of employment status.

4. Academic Council

In those cases where a sanction may negatively affect a faculty member's tenure process or his/her status as a tenured faculty member, the Dean will forward the report and recommended sanctions or remedial actions to the Academic Council. The Academic Council will consider the case and decide what, if any, disciplinary action to take. The accused person will be allowed to submit a written statement or materials relevant to the disposition of the case, but may not request to meet with the Council. The Academic Council will report its decision to the Dean, Provost, and President. All records of the Council's deliberations will be maintained in confidence by the Dean.

5. Appeals

The accused person may appeal the Dean's or Academic Council's decision to the Provost of the University within fourteen (14) days. The appeal review by the Provost will be limited to the adequacy of the procedures followed and the appropriateness of the disciplinary action taken.

6. Office of the General Counsel

The responsibilities of the Office of the General Counsel include:

- A. Ensuring compliance with all applicable laws and regulations
- B. Monitoring the progress of the resolution of each allegation of professional misconduct to ensure adherence to the established School and University procedures
- C. General supervision of proceedings for the purpose of affording procedural fairness to the accused, the accuser, and witnesses

The Office of the General Counsel will not act as the prosecutor or defender of the accused person, but will act as an impartial legal advisor to WSE Administration and University. Procedural questions from the accused person, accuser, or prospective witnesses should be referred through the Dean's staff to the Office of the General Counsel.

The Office of the General Counsel is available to render advice to Department Chairs or Center Directors, the Dean or the Dean's designee, ad hoc investigation committees, and the Academic Council; however, no member of the Office of the General Counsel will be present at any meetings of the Ad Hoc Committee in which there is testimony. Individuals serving in any of these capacities are encouraged to seek legal guidance regarding any procedural question, particularly in connection with the preparation of

written reports or actions taken, or before any action is taken with respect to any person believed to have made an accusation of professional misconduct in bad faith. Any contact or inquiry to the University or WSE from a lawyer outside the University, including contacts and inquiries emanating from legal representatives of a federal, state, or local agency, must be referred to the Office of the General Counsel.

7. Exclusivity of Procedure

This procedure for the resolution of allegations of professional misconduct is the exclusive mechanism within WSE for adjudication of questions of this nature. A person disciplined under this procedure may not invoke the School's grievance procedure in an effort to gain a readjudication of the charge.

Adapted from "Procedures for Dealing with Issues of Professional Misconduct"

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