

3356-9-06 Professional conduct of faculty, department chairpersons, and professional/administrative employees.

- (A) Policy statement. The mission and success of Youngstown state university (university) is sustained by the trust placed in its administrators, faculty, and staff by students, parents, benefactors, business and academic partners and by governmental entities. Faculty, department chairpersons, and professional/administrative employees are expected to demonstrate professional conduct that exhibits the values of honesty, integrity, competence, respect, and responsibility.
- (B) Purpose. To provide information, parameters and procedures designed to recognize and address allegations of professional misconduct.
- (C) Scope. This policy applies to all full-time and part-time faculty, instructors, department chairpersons, and professional/administrative employees (for purposes of this policy collectively referred to as professionals). Allegations of professional misconduct related to sponsored programs, use of human subjects in research, use and care of animals in research, research misconduct, conflicts of interest and/or commitment in sponsored programs, nondiscrimination and equal opportunity, harassment, sexual misconduct, and university technology use shall be reviewed pursuant to procedures provided in board policies governing these areas. The applicable university policies of the Administrative Code are:
- (1) Rule 3356-10-13 – “Research, grants, and sponsored programs.”
 - (2) Rule 3356-10-14 – “Integrity in research – use of human participants.”
 - (3) Rule 3356-10-15 – “Integrity in research – use and care of animals.”
 - (4) Rule 3356-10-16 – “Research misconduct.”
 - (5) Rule 3356-10-17 – “Objectivity in research – avoidance of conflicts of interest and/or commitment in sponsored research.”
 - (6) Rule 3356-2-03 – “Discrimination/harassment.”

(7) Rule 3356-2-3.1 – “Sexual misconduct.”

(8) Rule 3356-4-09 – “Acceptable use of university technology resources.”

(D) Definitions.

- (1) “Professional misconduct.” Improper behavior of a serious nature that arises from, or is reasonably related to, the professional’s position, duties, or responsibilities with the university, or that demonstrably and adversely affects the effective performance of university functions. For purposes of this policy, professional misconduct includes but is not limited to:
- (a) Fabrication, falsification, plagiarism, misrepresentation, omission or other intentional deception in one’s credentials or status or in one’s teaching, scholarly, research, or administrative or service duties or creative endeavors.
 - (b) Recommending or awarding grants, leaves, travel requests, promotions, professional awards or recognitions, or other funds or resources in violation of applicable university policies, agreements, contracts, grants, laws and regulations.
 - (c) Use of grants, facilities, equipment, supplies, or other university resources in violation of applicable university policies, agreements, contracts, grants, laws and regulations.
 - (d) Selective reporting of favorable results, or intentional omission of conflicting data, as an outcome of research, inquiry or service.
 - (e) Improper or unauthorized use or release of information, ideas, or data in violation of applicable university policies, agreements, contracts, grants, laws and regulations.
 - (f) Misappropriating, destroying, damaging or otherwise taking or using without permission the property of the university or others, or products or research produced by

others, such as data, equipment, supplies, computer programs, notes or other records, manuscripts, or specimen collections.

- (g) Preventing or obstructing university teaching, research, administrative, or service functions, or any other lawful function of the university.
- (h) Intentionally inflicting physical harm on a member of the university community.
- (i) Making threats of violence, retribution, harm, or engaging in conduct that can reasonably be perceived by others to be threatening, intimidating or harassing.
- (j) Neglect or willful failure to perform university-related duties and responsibilities.
- (k) Obstructing an inquiry into or investigation pursuant to this policy.
- (l) Retaliation against anyone for reporting misconduct or participating in an inquiry or investigation under this policy.
- (m) Deliberately making false allegations of professional misconduct. However, failure to substantiate a claim of professional misconduct is not equivalent to a false allegation and no person shall be penalized for good faith reporting of concerns under this policy.
- (n) Attempting to engage in, inciting another to engage in, or abetting, conduct which would violate this policy.
- (2) “Plagiarism.” Representing the work of another person, including the person’s words, ideas, or methods, as one’s own in public or private forums or media.

 - (a) Determinations of plagiarism, including allegations relating to classes, shall include consideration of:

- (i) The purpose and character of the use, including whether such use is of a self-interested nature or is for purposes other than an educational or professional mission;
 - (ii) The nature of the work, including whether published and copyrighted and whether part of the generally accepted body of knowledge in a field, discipline, or area;
 - (iii) The amount and substantiality of the portion used in relation to the work as a whole; and
 - (iv) The effect of the use upon the audience and upon the potential market for or value of the work.
- (b) In general, use of the work of another person should be accompanied by proper citation or acknowledgment. However, the requirements and specificity of citation or acknowledgment may be determined by the expectations or common practices of the forum, medium, or discipline within which the use occurs. If a generally accepted code of professional ethics for a particular discipline contains additional or different provisions related to plagiarism, then that code shall apply to members of that profession. Accordingly, the fact that the work of another person is not cited or acknowledged shall not, itself, mandate a finding of plagiarism.
- (c) In no case shall a finding of plagiarism apply to written or oral representations that are part of casual conversations, strictly private communications between individuals, or other personal exchanges in which a faculty member, department chairperson, or professional/administrative staff member is not acting as a representative of the university or in his/her professional role.
- (3) Nothing in these definitions shall be interpreted to include unintentional error, omission, or oversight or to obviate sincere and genuine differences in interpretations or judgments regarding policies, resources, or data.

(E) Parameters.

(1) Professional conduct committee.

(a) A standing professional conduct committee (“committee”) under the authority of the academic senate will be responsible for addressing allegations of professional misconduct in accordance with this policy. The committee and any subcommittee will receive appropriate legal and secretarial support in connection with their work.

(b) The committee shall consist of twelve members. Six members shall be tenured faculty, one from each undergraduate college appointed by the chair of the academic senate, and six members shall be professional/administrative employees appointed by the president of the university. At least two tenured faculty members of the committee shall be regular members of the graduate faculty. Members of the committee shall serve for staggered three-year terms. Initially two faculty members and two non-faculty members shall be appointed for a one-year term, two faculty members and two non-faculty members shall be appointed for a two-year terms, and two faculty members and two non-faculty members shall be appointed for a three-year term. The committee shall elect its own chairperson, who shall serve a three-year term as chairperson and member. The committee shall operate under majority rule, and a quorum shall consist of seven members.

(2) Confidentiality. Confidentiality is required for the effective investigation and implementation of this policy. Information will only be disclosed as required by state or federal law, pursuant to this policy, with university employees with a legitimate need to know or when necessary to effectuate this policy.

(F) Procedures.

(1) Preliminary review.

(a) A person who believes that a professional has engaged in professional misconduct, as a defined by this policy, shall meet with the committee chairperson to discuss the issue.

(b) If the chairperson is uncertain as to whether the alleged professional misconduct falls within this policy, the chairperson shall raise the question with the chair of the academic senate. The chair of the academic senate, the president of the university, and the provost/vice president for academic affairs, or their designees, shall confer and determine by a majority vote whether the alleged professional misconduct reasonably falls within the application of this policy.

In cases where the alleged misconduct involves a sponsored program, the associate vice president for research and dean of graduate studies shall be consulted prior to the determination.

(c) The chairperson shall listen to the concerns of the complainant and provide the complainant with information regarding filing a formal allegation of professional misconduct and the applicable procedures.

(2) Formal review.

(a) A formal allegation of professional misconduct must be made in writing and provided to the chairperson. Anonymous complaints of professional misconduct will not be accepted by the chairperson.

(b) A formal allegation of professional misconduct must be provided to the chairperson of the professional conduct committee within one hundred and eighty days after the complainant becomes aware of the alleged professional misconduct.

(c) The one hundred and eighty day time limit may be extended in those instances where the professional misconduct could not have been discovered through the exercise of reasonable care and diligence. A determination

that this time limit will be extended shall be made by the professional conduct committee by a majority vote of the quorum and is not appealable under this policy. The committee will consider the nature of the misconduct and whether fraud, concealment or intentional misrepresentation prevented discovery.

(d) Upon receiving a formal allegation, the chairperson shall call a meeting of the committee to determine whether the allegation warrants a formal investigation. In conducting this inquiry, the committee shall be responsible for gathering information and conducting an initial fact-finding process to support its decision. Within twenty-eight days from the receipt of a formal allegation of professional misconduct by the chairperson, the committee shall determine whether a formal investigation of the allegation is appropriate. A majority vote of the quorum is required to determine that a formal investigation is appropriate.

(e) Within seven days of the determination that a formal investigation is appropriate, the chairperson shall notify the complainant and the person against whom the formal allegation has been made of the committee's determination. The chairperson shall make no public announcement regarding such determination unless he/she deems it necessary to protect the reputation of the person against whom an allegation was made.

(3) Formal investigation.

(a) With the advice of the committee, the chairperson shall appoint a case investigation subcommittee consisting of five members comprised of tenured faculty, administrators and/or professional staff with appropriate background and knowledge to conduct a thorough and authoritative evaluation of the evidence and information bearing upon the allegation. At least one member of the subcommittee shall be a member of the committee. The chairperson shall also designate the chairperson of the subcommittee. The subcommittee may include tenured faculty, administrators, or professional staff from outside the university in cases

where individuals within the university would not have the required expertise or would be subject to an actual or apparent conflict of interest.

(b) The subcommittee shall investigate the allegation of professional misconduct, author a report of investigation and determine whether there is adequate evidence such that a reasonable person would find the allegation(s) substantiated or unsubstantiated. The investigation shall include interviews with the person against whom the allegation has been made, if possible, and an examination of available pertinent evidence and information bearing upon the allegation. A quorum consisting of no fewer than three members of the subcommittee shall be present whenever testimony is given in connection with an investigation. The subcommittee shall keep detailed records of its investigation.

(c) All documents, records, statements and any other information and material gathered or used by the subcommittee shall be made available to the person against whom the allegation is made and his/her representatives. If the investigation includes interviews, testimony, or the appearance of any person before all or part of the subcommittee, the person against whom the allegation has been made and/or representatives of his/her choice may be present and question any such persons. In addition, they shall have the right to obtain documents, records and information, and to interview witnesses, including the complainant, regarding the allegation.

All persons being interviewed, giving testimony, or otherwise making an appearance before all or part of the subcommittee may have representatives of their choice present to advise them. Any person who chooses to have the aid of representatives shall do so at his/her own expense.

(d) Within sixty days of its appointment, the subcommittee shall file a report of its investigation with the committee, except that it may request an extension from the

chairperson of up to thirty days to complete its work. The report of the subcommittee shall include all of the information and records gathered in its investigation and shall provide a determination that the allegation is substantiated or unsubstantiated.

(e) The subcommittee's determination that an allegation is unsubstantiated shall be final and not subject to committee review.

(4) Committee review of a substantiated allegation.

(a) Within thirty days from receipt of the subcommittee's report, the committee shall:

(i) Vote on whether the committee accepts the subcommittee's determination that the formal allegation of professional misconduct is substantiated by the evidence. A majority of the quorum shall be required to find that the allegation is substantiated. If the committee determines that the allegation is substantiated (supported by relevant evidence that a reasonable person would accept as adequate to support the determination), the committee shall also recommend penalties or sanctions, provided at least seven members of the committee agree on penalties and sanctions.

(ii) If the committee determines that the allegation of professional misconduct is substantiated, the chairperson shall prepare a professional misconduct report and shall provide copies of this report to the person against whom the finding of professional misconduct was made, his/her immediate administrative superior, the person who made the allegation, the chair of the academic senate, the president of the university, the vice president of the division where the person against whom the finding was made works, and the chairperson of the university board of trustees. This report shall include the formal allegation, findings of fact, and

when appropriate recommended penalties or sanctions. The report may also include recommendations for the review and/or revision of applicable policies or procedures.

- (iii) If at least seven members of the committee do not affirmatively vote that the allegation is substantiated, then the allegation will be found to be unsubstantiated, and the chairperson shall promptly notify the person who was the subject of the allegation, his/her immediate administrative superior, the person who made the allegation, the chair of the academic senate, the president of the university, the vice president of the division where the person against whom the allegation was made works, the chairperson of the university board of trustees, and others deemed appropriate by the chairperson, including professional societies.

(5) Appeal of a substantiated allegation.

- (a) Not later than fourteen days after receipt of the professional misconduct report, the person found to have engaged in professional misconduct may file an appeal of the professional misconduct report as to the formal allegation, application of the policy, procedures followed, findings of fact, and recommended penalties or sanctions with the president of the university. If the person found to have engaged in professional misconduct is the president of the university, the appeal shall be filed with the chairperson of the university board of trustees.
- (b) The person with whom the appeal is filed, or his/her designee, shall appoint a committee of not less than three persons who have not participated in the original investigation to review the appeal and make a recommendation. The person with whom the appeal is filed, or any committee he/she appoints in connection with the appeal, may conduct whatever level of review they determine to be appropriate, including interviewing previous witnesses and reviewing documents. However,

the review may be based on the existing investigative materials and reports.

(c) Not later than forty-five days after an appeal is filed, the person with whom the appeal is filed shall issue a decision on the appeal. If the appeal is upheld, the person granting the appeal shall promptly notify all appropriate parties. This notification shall include the rationale for granting the appeal. If the appeal is denied, the person denying the appeal shall promptly notify all appropriate parties, including the immediate administrative superior of the person determined to have engaged in professional misconduct. This notification shall include the rationale for denying the appeal. Alternatively, the person with whom the appeal is filed may modify any part of the professional misconduct report.

(d) A substantiated allegation shall be set aside or found to be unsubstantiated upon review only if found to be arbitrary, unreliable, an abuse of discretion, or contrary to this policy.

(e) A modification of the professional misconduct report must be reasonable and not contrary to relevant evidence.

(G) Administrative implementation of sanctions.

(1) Absent an appeal, or if the appeal is denied or a modified professional misconduct report is issued, the immediate administrative superior of the person found to have engaged in professional misconduct shall within ten working days, implement, or engage the process to implement, any recommended sanctions of the professional misconduct report. Implementation shall be consistent with any applicable collective bargaining agreement and applicable university policies.

(2) Failure of the immediate administrative superior to implement or engage the process to implement, any recommended penalties or sanctions shall be a violation of this policy subject to appropriate discipline.

- (H) Records. The chairperson shall maintain all documentation related to the committee's actions regarding formal allegations and arrange for the safe storage of all records of the committee's and subcommittee's meetings, inquiries, investigations, votes, and recommendations for a period of three years after a finding on the allegation.
- (I) Conflict of interest. No person shall serve on the committee, subcommittee, or hear an appeal of an allegation of professional misconduct either filed by or alleging that such person has engaged in professional misconduct. No person shall serve on a committee, subcommittee, or hear an appeal of a finding of professional misconduct in a given case if such person has a personal interest in the outcome of the case. If there is a need to appoint a temporary or permanent replacement member of the committee or subcommittee, the original appointing person shall appoint the replacement. If the chair of the academic senate has a conflict of interest in a given case, the president of the university shall appoint the replacement. If the president of the university has a conflict in a given case, the chairperson of the university board of trustees shall appoint the replacement.

Replaces: 3356-9-06
Effective: 08/05/2016

CERTIFIED ELECTRONICALLY

Certification

07/25/2016

Date

Promulgated Under: 111.15
Statutory Authority: 3356
Rule Amplifies: 3356
Prior Effective Dates: 7/24/00, 6/16/03, 2/1/04, 5/28/11