

THE UNIVERSITY OF CHICAGO

Report of the Provost's Committee on Academic Fraud

*approved by the University Senate on March 17,
1998*

INTRODUCTION

Academic fraud is a threat to the intellectual integrity on which the advancement of knowledge depends. Academic fraud can taint the reputation of the University and of its honest scholars and researchers. It can compromise the position of collaborators, subordinates, and supervisors. Fraudulent scholarship can lead other investigators down fruitless paths of inquiry, with potentially enormous sacrifices in knowledge, morale, careers, time, and money. Its occurrence places great strains on collegial interaction.

The incidence of academic fraud is difficult to measure and is, one hopes, very small. But instances have occurred at research universities, and, during recent decades, the subject has been extensively discussed within both the scholarly community and the wider public. Some years ago, it became apparent that ad hoc procedures do not allow universities to respond well to charges of academic fraud. Specific procedures established in advance reduce the risks to everyone involved. Moreover, regular communication of an established policy throughout the University underscores the institution's commitment to the highest standards of academic work and to fair and thorough assessment should accusations of fraud occur.

Recognizing the importance of the issues, Provost Norman Bradburn constituted a Committee on Academic Fraud, chaired by Professor Richard A. Epstein, in November, 1984. Having available to it procedures then in place in the University to deal with charges of academic fraud in the biological sciences, the Committee's charge was to consider the standards and procedures that might be suitable for the University as a whole, including the biological sciences. The Committee's report discussed the issues and recommended a standing set of procedures for the investigation of charges. The Council of the University Senate accepted the recommended procedures in December, 1985.

In September, 1996, Provost Geoffrey Stone appointed a second Committee on Academic Fraud. Its charge was (a) to review the existing policies and procedures in light of the University's experience, the development of discussions and policies elsewhere, and the expectations of external institutions that do or may fund research at the University; and, (b) to recommend revisions in the University's Procedures for Investigating Academic Fraud.

Following our review, the Committee reaffirms the basic policies and procedures established in 1985. This reaffirmation includes the decision to define the policy in terms of academic fraud. We have considered the decision of some other institutions to identify the relevant kind of activity as "scientific misconduct" or "academic misconduct," but we do not propose this terminology. The procedures that are formulated below structure a kind of academic investigation whose consequences can be profoundly harmful to the parties involved, regardless of the outcome, and this form of investigation is not proper

for assessing the quality of scholarship. The procedures are also inappropriate for investigating forms of alleged wrongdoing that are not peculiar to academic work, and for those allegations the University has other established procedures. Although some understandings of scientific or academic misconduct, including the definition proposed by the National Academy of Sciences,[†] are circumscribed in a manner that is similar to the University's established understanding of academic fraud, "misconduct" is a vague term, the limits of which are a matter of substantial disagreement in contemporary usage. Because the term "fraud" avoids any suggestion of wider meaning, we have decided not to recommend a change in the University's established term.

The Committee also recognizes that some federal agencies, including the National Science Foundation and the Public Health Service, have their own regulations for investigations of this kind, containing definitions of the relevant misconduct that are more inclusive than the University's understanding of academic fraud, as well as specific reporting requirements. In order to comply with those regulations, we recommend two significant additions to the procedures. Section 1 now requires that the more inclusive definition stipulated in the relevant regulations of an external funding institution shall be used to identify the scope of the procedures with respect to allegations involving academic work that is funded by that institution. Section 3, which describes the Initial Inquiry, now stipulates that the administrative official who receives the initial charge shall immediately determine whether the academic work in question involves funding from an external institution that has its own regulations for investigations of this kind, and, when that is the case, the University's procedures shall, if necessary, be supplemented in the manner that is required to make them consistent with those regulations. Section 3 also clarifies the role of the Director of Research Administration. (See also the section entitled Administrative Guidance.)

In recommending these changes, the Committee has given careful attention to the definition of the relevant wrongdoing that is common to both the National Science Foundation and the Public Health Service: "Misconduct in science" is defined as "fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research."^{*} The Committee is troubled that the concluding phrase of this definition could in itself be broadly construed. Still, it is apparent to us that the intended meaning is limited. The Public Health Service adds that scientific misconduct "does not include honest error or honest differences in interpretations or judgments of data" and comments that "the language 'other practices that seriously deviate' has been retained to assure coverage of any serious misconduct that might not technically be considered 'fabrication, falsification, or plagiarism.'" On our reading, these agencies intend that investigations of this kind should be limited to reckless or gross deviations from the incontestable standards on which the scientific enterprise and scientific advance depend. Accordingly, the scope of "scientific misconduct" does not include mere inadvertence or poor judgment or other ordinary lapses from reasonable care that are infrequent but inescapable in large-scale programs of scientific research. Nor does the language "other practices that seriously deviate" include, when they are fully disclosed, those bold departures from traditional research programs that carry both the greatest risk of failure and the greatest possibility of a quantum leap in scientific progress. It is with this understanding that the addition to Section 1 of the procedures is recommended.

The Committee also recommends some refinements in formulation, designed to prevent misunderstanding, and seven other significant revisions to the procedures.

Four of these revisions amend the procedures at the stage of the initial inquiry:

(1) It is explicitly stated that the responsible administrative official shall be given access to any materials that the official deems relevant to her or his inquiry.

[†] "Misconduct in science is defined as fabrication, falsification, or plagiarism, in proposing, performing, or reporting research. Misconduct in science does not include errors of judgment; errors in the recording, selection, or analysis of data; differences in opinions involving the interpretation of data; or misconduct unrelated to the research process." *Responsible Science: Ensuring the Integrity of the Research Process*, vol. I, Washington, D.C.: National Academy Press, 1992, p. 5.

^{*} This is the wording in the Public Health Service's regulations. The wording in those of the National Science Foundation is slightly different, but the Foundation notes that its definition "is based on the Public Health Service definition and was adopted for the purposes of uniformity."

(2) The administrative official who receives the initial charge is required to consult with her or his Dean (or, if this official is a Dean, then with the Office of the Provost) regarding the results of the inquiry before making a final decision regarding dismissal or forwarding of the case. As a matter of policy, it is unwise to permit a situation in which any such decision is informed by the deliberation of one party alone.

(3) If the initial administrative official decides to dismiss the charge, she or he is required to provide a written report to the Dean and the Provost that includes a description of the procedures that have been followed. As a matter of policy, it is important that there be a record of the decision.

(4) If the initial administrative official decides to dismiss the charge, she or he is required to give a copy of the written report to the party charged. The 1985 procedures stipulated that “the charges may be dismissed without giving notice to the party charged, provided always that if the party charged has been given notice of the charges, then he or she shall be given written notice that they have been dismissed.” However, the 1985 procedures did not require a written report in the event that the charge is dismissed. Given that this report will now exist, we believe that the party charged has a right to see it.

Two further revisions alter the Standing Committee’s responsibilities:

(5) The 1985 procedures specified that, should an investigative panel find that academic fraud has been committed, “its decision shall be accepted by the Standing Committee unless it determines either that the decision is against the manifest weight of the evidence or that it rests on a clearly improper interpretation of academic fraud”; and, should the panel find that academic fraud has not been committed, “its decision shall be binding on the Standing Committee unless there is clear and convincing evidence that the party charged, unbeknownst to the panel, has committed acts of perjury or improperly has suppressed relevant evidence.” Because the Standing Committee is the interpreter of the meaning of these procedures, we recommend that it also have the power to reject the latter finding if it rests on a clearly improper interpretation of academic fraud and, in that event, to remand the case to the original panel with instructions to reconsider the facts in terms of the Committee’s clarification of academic fraud. This change is the more important given the addition to Section 1 on the scope of the procedures, because that amendment means that differing cases may be subject to differing definitions of the relevant wrongdoing.

(6) The 1985 procedures specified that, upon a finding of fraud, the Standing Committee should appoint a panel to investigate the extent of fraud “except where circumstances clearly suggest that academic fraud has been confined to the single instance under review.” This might be read to require a second panel in the absence of evidence that clearly excludes the possibility of additional fraud, and, on this reading, one might anticipate that an extent of fraud panel would be appointed in virtually all cases in which fraud is found. However, in the University’s experience since 1985, no extent of fraud panel has been appointed, apparently because, in each case, the Standing Committee has concluded the investigation in the absence of evidence that opened the possibility of additional fraud. We believe that this latter understanding is the more reasonable one and seek to clarify the procedures in conformity with it. We recommend that, upon a finding of fraud, the Standing Committee shall appoint a second panel for the purpose of investigating the extent of fraud only if there is evidence that academic fraud may not be confined to the single instance that has been reviewed.

The final revision designates the Standing Committee as the interpreter of these procedures:

(7) It is explicitly stated that the initial investigating official and, subsequently, any investigatory panel appointed by the Standing Committee on Academic Fraud may, during the course of their work, consult with the Standing Committee regarding questions about interpretation of the University’s procedures on academic fraud.

The remainder of this report consists of two principal parts. The first part is a brief review of the procedures and the reasons for them; neither it nor anything said above should be read as a formulation of the procedures themselves. The procedures are presented in the second part. [These procedures are published separately, as the University of Chicago Policy on Academic Fraud, 1998.] Because the Committee has reaffirmed the established policy in its basic form and content, we present our recommendations as revisions to the document that was accepted by the Council of the University

Senate in December 1985. Accordingly, the wording of the 1985 report, especially its formulation of the procedures, is in large measure retained.

I. Defining Academic Fraud

The scope of the following procedures is limited to academic fraud. Academic fraud involves a deliberate effort to deceive and is distinguished from an honest mistake and honest differences in judgment or interpretation. Academic fraud is defined as plagiarism; fabrication or falsification of evidence, data, or results; the suppression of relevant evidence or data; the conscious misrepresentation of sources; the theft of ideas; or the intentional misappropriation of the research work or data of others.

Some cases of academic fraud are easy to detect and prove. For example, the discrepancies between the published work and the records, notes, or data on which it is said to rest may be so great that intentional misrepresentation is the only possible inference. In other cases, the inference is more difficult to draw. Some errors are unavoidable in any research; others may be the result of negligence, but not fraud. Whether research techniques were very sloppy or deliberately misleading sometimes raises difficult issues of fact and judgment. Making the appropriate judgment about research techniques requires sophistication about both the subject matter and the research methods of the work under review. Finally, charges of the theft of scholarly ideas can be hard to verify because ideas are often “in the air.” Cases of simultaneous discovery are common in science.

Nonetheless, the distinction between fraud and negligence must be observed. The Procedures for Investigating Academic Fraud have a specific purpose, and the Standing Committee on Academic Fraud has a limited mission. These are not procedures for the correction of poor scholarship, as the scholarly vocation and its wider service are best advanced if the merits of scholarly work are assessed in the ordinary academic marketplace. Yet once an allegation of fraud is raised, it must be investigated through an established process that is designed to insure informed, fair, and unbiased assessment; to protect, insofar as possible, against unwarranted harm to participants; and to be completed within a reasonable period of time. Should it become clear that fraud is not involved, then the investigation should cease, regardless of the degree of carelessness in the work under scrutiny.

II. Institutional Structure

The procedures stipulate that a Standing Committee on Academic Fraud shall be appointed by the Provost to oversee and coordinate the University's investigation of academic fraud cases.

As detailed in the procedures, any charge of academic fraud shall be handled in several stages, which may be summarized as follows: First, there shall be a preliminary examination by a responsible administrative official, who shall give notice that an inquiry is taking place to the appropriate Dean (or, where that official is the Dean, to the Office of the Provost) and shall consult with the Dean (or, where that official is the Dean, with the Office of the Provost) regarding the results of the inquiry before making a final decision about the case. Second, if not terminated at this stage, the case then shall be referred to the Standing Committee on Academic fraud. Third, the Standing Committee shall then refer the case to a special panel for investigation on the fact of fraud. Fourth, if fraud is found, the Standing Committee shall determine whether there is evidence that academic fraud may not be confined to the single instance that has been reviewed and, if there is, refer the case to a new panel for an investigation into the extent of fraud. Upon completion of its activities, the Standing Committee shall inform the proper administrative officials within the University regarding the outcome of the investigation, so that appropriate action can be taken.

The procedures control for any conflict of interest that might arise, provide for compliance with the requirements of external funding institutions, stipulate that those responsible for an investigation shall be given access to all evidence they deem relevant, and address the issue of confidential materials.

The Committee believes that this complex structure is necessary. Given the need for special expertise, no single committee can do the direct investigating work itself. In addition, the structure we recommend insures that any purported fraud shall be looked into by many individuals at three different levels of inquiry. The complex structure, therefore, seeks to insure proper investigation of all charges of academic fraud, while providing an important check against sustaining false charges and protecting individuals responsible for the investigation from allegations of bias. Any investigation made pursuant to these procedures determines only whether fraud has been committed; it has no disciplinary functions,

as these are lodged in the offices of the President and Provost and are governed by separate University procedures.

A. The Initial Inquiry

Identifying academic fraud depends on the willingness of individual members of the University community to report possible instances of academic fraud to persons with administrative responsibility for academic departments. Charges of academic fraud will sometimes be made by coworkers of the accused; they will sometimes come from other colleagues; they will sometimes be made by investigators and scholars outside the University. Charges of fraud are always an emotional matter; the procedures must be able to cope with cases in which coworkers fear retaliation by the accused or her or his friends and with cases where the charges are motivated by personal bitterness. Persons who make charges in good faith must be protected against retaliation while every effort must be made to discourage frivolous accusations. (For further details, see University of Chicago Policy # U606)

The procedures require that an impartial and thorough review of the charges shall be undertaken at a preliminary level. The purpose of this initial review is to insure that some evidence for the charge exists and, therefore, that further investigation is warranted. It should be stressed that if there is reason to believe that academic fraud may have been committed, the matter should be promptly forwarded to the Standing Committee.

B. The Investigation

Once the Standing Committee has received charges of academic fraud from an appropriate administrative officer, it shall appoint a panel to investigate the truth of the allegations, and the procedures stipulate certain conditions regarding the members of the panel. In general, the panel has power over its own investigation, but the procedures also identify certain responsibilities.

One of the issues faced by the Epstein Committee was whether lawyers should be permitted to be present at the hearings. The Epstein Committee believed that their presence might often be unnecessary, but it recognized that the party charged might want the assistance of a lawyer when a career is at stake. We concur with that committee's resolution of the issue. The procedures set out the basic rules that regulate the role of lawyers before the panel. The essential rule is that the party charged has the right to bring a lawyer whenever he or she has the right to be present. When the party charged brings a lawyer to panel proceedings, the panel must request that the University supply it with a lawyer for its assistance.

On the conclusion of its investigation, the panel reports to the Standing Committee, and the procedures specify both the character of this report and the powers and responsibilities of the Standing Committee with respect to its required review. Where academic fraud is found, a second panel may be required to examine its extent. There is a clear need for separate panels. The finding on the fraud issue should be made as quickly as possible and should not be deferred until a detailed examination of much of the scholarly output of the party charged has been carried out. The procedures provide some direction for the focus of the extent of fraud investigation, but we do not believe that it is possible to specify exactly the scope of this panel's work, as that may depend in part upon the nature of the panel's initial findings. The extent of fraud panel shall operate under basically the same rules as the fact of fraud panel, and its work shall also be reviewed by the Standing Committee. The procedures also specify that the Standing Committee reports to the Provost and to the appropriate Dean, and the procedures assign responsibilities for any appropriate notification to other parties inside or outside the University.

C. Coordination of Investigations with Outside Institutions

Many scholars work at different institutions at various stages of their careers. Charges of fraud may be brought or established against someone who is no longer at The University of Chicago. Similarly, someone now at The University of Chicago might be the subject of an investigation elsewhere, or might even be found guilty of academic fraud at another institution. In such cases, prompt action may be required at this University, and the procedures specify the responsibilities and powers of the Standing Committee.

III. Additional Rules

No set of procedures will be able to respond to all questions that might arise in responding to a single charge of academic fraud. For this reason, the Standing Committee is given the power to supplement and clarify the procedures in a manner that is consistent with the rules that are stipulated.

IV. Communicating the Procedures

The Committee recommends to the administration of the University that the meaning of academic fraud and the procedures for its investigation, including where relevant the policies of external funding institutions or agencies, be annually communicated to the University community in a clear and effective manner.

Appendices

NIH policy; NSF Policy; ONR Policy; University of Chicago Personnel Policy U606

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