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I. SBHE (STATE BOARD OF HIGHER EDUCATION) POLICIES

Policies of the State Board of Higher Education (SBHE) apply to all campuses of the North Dakota University System. Those policies supersede any policies developed specifically for Minot State University. The text of all SBHE policies is available on the NDUS website: https://www.ndus.edu/board/policies/.

The North Dakota University System Human Resource Manual is also available on the NDUS website: https://www.ndus.edu/makers/procedures/hr/.

II. AFFIRMATIVE ACTION POLICY

The University practices a policy of affirmative action which provides equal employment opportunity for all individuals without regard to race, gender, color, religion, age, national or ethnic origin, marital status or disability. The complete text of the University’s Affirmative Action Plan (1995) is available at the office of Human Resources.

III. HARASSMENT POLICY

Under Review: October 19, 2015

Policy and Definition: It is the policy of Minot State University that there shall be no discrimination against persons because of sex, gender, sexual orientation, race, ethnicity, color, religion, national origin, pregnancy, age, marital status, veteran’s status, political beliefs or affiliation, or physical or mental disability. Harassment is a form of discrimination that creates a hostile environment in the workplace and the classroom, and, therefore, Minot State University will not tolerate harassment in any form. The behavioral standard of this policy applies to faculty, staff, and students, as well as persons conducting business with or visiting the University. This policy contains a definition of harassment, procedures for reporting allegations of harassment, procedures for investigations and resulting disciplinary matters, and discussions concerning consensual relationships and retaliation.

Appendix A contains further discussion for understanding the practical definition of harassment. This policy implements the State Board of Higher Education Policy 603.1, Harassment.

Harassment is defined as verbal, nonverbal, or physical conduct towards another person or identifiable group of persons that is severe, persistent, or pervasive and has the purpose or effect of:

a. Creating an intimidating or hostile education environment, work environment, or environment of participation in a University activity;

b. Unreasonably interfering with a person's educational environment, work environment, or environment of participation in a University activity; or

c. Unreasonably affecting a person's educational or work opportunities or participation in a University activity.

Sexual harassment is defined by unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education requirement;
b. Submission to, or rejection of such conduct by an individual is used as the basis for employment decision, educational decision (grades, etc.) affecting such individual;

c. Such conduct has the purpose or effect of substantially interfering with an individual’s work or learning performance or creating an intimidating, demeaning, or hostile offensive working/classroom environment.

**Reporting Procedures (Students):** Any and all complaints alleging any form of harassment may be reported to the Human Resources Director or the Vice President for Administration and Finance; however, in an effort to satisfy a complaint and solve problems at the lowest level possible, students should also consider the following report methods:

a. Complaints alleging any form of harassment related to employment should be reported to the student's supervisor or to someone in the supervisory line.

b. Complaints alleging any form of harassment related to the classroom environment should be reported to the classroom instructor, department chair, dean, or Vice President for Academic Affairs.

c. Complaints alleging any form of harassment related to non-classroom environments should be reported to the Director of Student Life or the Vice President for Student Affairs.

**Reporting Procedures (Faculty and Staff):** Any and all complaints alleging any form of harassment may be reported to the Human Resources Director or the Vice President for Administration and Finance; however, in an effort to satisfy a complaint and solve problems at the lowest level possible, faculty and staff should also consider the following report methods:

a. Complaints alleging any form of harassment from employees should be reported to the employee's supervisor or to someone in the supervisory line.

b. Complaints alleging any form of harassment from students should be reported to the department chair, dean, Vice President for Academic Affairs, or Vice President for Student Affairs.

c. Complaints alleging any form of harassment from other campus visitors should be reported to your supervisor or the vice president with responsibility for that environment.

**Formal and Informal Reporting of Complaints:** Anyone with knowledge concerning allegations of harassment should report such behavior or incidents. Timely reporting of harassing behavior is essential to the investigation that will follow, though there is no deadline for reporting such behavior.

All reports will be referred to as “formal” or “informal.”

A formal complaint refers to complaints made in writing, either by letter or by the use of the complaint form. Formal complaints will include a description of the allegation and will also include the name and signature of the complainant.

An informal complaint refers to complaints made orally.

All complaints, formal or informal, will be acted upon; however, an informal complaint may limit the University's ability to effectively resolve the complaint.
While the University respects the complainant’s potential need for confidentiality, anonymity or confidentiality cannot be guaranteed. In the case of informal reports the complainant’s name will not be used during investigations at any level; however, the nature of the specific issue may reveal the person’s identity. (See Appendix A at the end of this section.)

Investigations: Anyone receiving a complaint should contact the Human Resources (HR) Director to coordinate a plan for investigating the complaint. The HR Director may investigate, assist, or accept a lead role in investigating any complaint of harassment.

While an investigation should happen as expeditiously as time permits, it is expected that an investigation will be completed within 30 days. This time-line may be extended to a maximum of 120 days due to particular difficulties or unforeseen circumstances.

Each investigation will conclude with a “Report of Investigation” and will include at a minimum the background of the allegation, finding from the investigation, and a recommendation based on the finding. The finding will be a determination by the investigator whether the University's policy on harassment was violated. Copies of the report will be provided to the complainant, the accused party, and other parties who will need to act upon the recommendation. The Human Resources office will serve as the office of record for the original report of investigation.

In the event the report of investigation finds that the University policy on harassment was not violated, the complainant may appeal the finding. The appeal must be filed in writing within thirty days of the date of the report and may be filed on any basis, though bringing to light new or missed information or mischaracterizations in the reports will probably be more effective. The appeal should be delivered to the Director, Human Resources, who will provide it to the supervisor of the initial investigator for review.

**Disciplinary Matters:** If a recommendation from the report of investigation calls for disciplinary action, the appropriate administrator is not bound by the recommendation. The administrator may discuss the report with the investigator and others in the supervisory chain to make a determination concerning the recommendation. Disciplinary action need not be progressive. Actions will be determined on the basis of the severity of the harassment and may include anything from a verbal warning to a dismissal, inclusively.

If the administrator takes disciplinary action against a member of the faculty or staff, the action will follow North Dakota Century Code, State Board of Higher Education Policies, NDUS Human Resource Policies, and local policies including those contained in the Faculty Handbook as appropriate.

a. Any documented disciplinary action will include an opportunity for the recipient to acknowledge receipt of the document without discussion of agreement and to attach any comments to the document that will become a permanent part of that document. The right of the recipient to attach comments is without deadline, though three to five days should be provided the recipient prior to filing. (NDCC 54-06-21, State Government – General Provisions)

b. The recipient of disciplinary action may appeal the action or grieve the policy, practice, or procedure through the Faculty Rights Committee or Staff Personnel Board as appropriate. (SBHE 605.4, Hearings and Appeals; NDUS HR Policy 27, Appeal Procedures)

The Vice President for Student Affairs oversees disciplinary action against a student and ensures the action conforms with North Dakota Century Code, State Board of Higher Education Policies, and local policies contained in the Student Handbook, specifically, the Student Conduct Policy.
Non-Retaliation: This policy seeks to encourage the timely reporting of allegations of harassment to subsequently provide for the timely resolution of the allegations. Retaliation against faculty, staff, or students for reporting complaints of harassment or enforcing this policy is strictly prohibited. Anyone involved in overt or covert acts of reprisal, interference, restraint, penalty, discrimination, or harassment against an individual or group for reporting an allegation of harassment or participating in an investigation under this policy will be subject to prompt disciplinary or remedial action.

Student-Faculty Relationships: Any intimate, dating, or sexual relationship between faculty and students is explicitly prohibited. Any form of sexual harassment toward students is explicitly prohibited. Relationships between faculty members and students beyond the academic scope create a potentially threatening situation within the context of harassment and may create conflicts of interest in other areas as well.

Appendix A

Dealing with Harassment
People who harass will have no reason to stop unless they are challenged. Therefore, it is imperative to support and encourage people who are targets of harassment to come forward. Indeed, supervisors have an institutional and legal responsibility to respond to these concerns appropriately. However, many people do not report their experiences. They are afraid they will not be believed or that others will say, “They asked for it.” It’s natural in such circumstances to feel uncomfortable and worried.

Yet, ignoring or minimizing the problem will not make it go away. Remember, too, that oftentimes harassment is not blatant or obvious; it can be subtle. In fact, sometimes it is so subtle that it may be only after a series of incidents that a person may begin to feel that harassment is occurring. Individual incidents, taken in isolation, may not constitute harassment. However, when these incidents constitute a series of ongoing offenses, he or she may well conclude that a pattern of harassment exists.

Sometimes harassment can be stopped by taking direct action. Anyone who believes they are being, or have been, harassed should first point out the harassing behavior to the other individual. Be direct and clearly communicate your disapproval of the behavior that makes you uncomfortable and that you consider it harassing. Sometimes the other individual simply needs to be made aware of their behavior and that it has crossed the line into harassment. If the behavior persists, then the matter should be reported formally or informally as discussed in the policy section on “Reporting Procedures.”

IV. SIGNIFICANT INFECTIOUS DISEASES POLICY

Definition and Procedure
For the purpose of this policy, significant infectious diseases are defined as blood borne pathogens and reportable communicable diseases (for example, influenza, meningitis, tuberculosis, mumps). Minot State University will follow the policies and recommendations of the Centers for Disease Control of the U.S. Public Health Service and the North Dakota State Health Department and will work in cooperation with local health authorities to prevent the spread of significant infectious diseases and will promote, through education, the prevention of such diseases

AIDS: Prohibiting Discrimination against Faculty/Staff, Students, or Others using University Services.

A. Privacy Rights and Notification to the University
Minot State University upholds the right of privacy for individuals infected with the human immuno-deficiency virus (HIV), including those who have developed AIDS. These individuals
retain the right to select the people they wish to inform concerning their HIV/AIDS status. The guidelines outlined on the HIV testing consent form for reporting requirements according to the North Dakota law are followed.

If individuals with HIV/AIDS request special accommodations in order to continue their education at MSU, they will notify the Director of Student Health Service. The Director will request the President of MSU to convene the Significant Infectious Disease (SID) committee.

**Significant Infectious Disease Committee**

1. **Membership** — The Affirmative Action Officer shall serve as the committee’s chair. The Director of Student Health, Medical Provider, one Vice Presidential representative as appropriate from either Academic Affairs, Operations or Student Affairs, and a representative from First District Health Unit Infection Committee.

2. **Term** — Only so long as needed for the committee to report its recommendations to the university president.

3. **Duties** - The Significant Infectious Disease Committee shall review and make recommendations regarding any reasonable request for workplace restrictions on a faculty or staff member diagnosed as having AIDS. Similarly, the SID Committee shall review and make recommendations regarding any reasonable accommodations or restrictions on the educational programs or other university activities of a student diagnosed as having AIDS.

The university shall abide by the recommendations of the SID Committee; however, the president retains the right to modify or reject the committee's recommendations.

The Committee will consult with, or request assistance from those university administrators most closely related to the accommodation requested by the individual. Additional assistance or information may be requested from the individual's physician and from the North Dakota State Health Officer.

**Faculty/Staff** — Confidentiality of faculty or staff members with HIV/AIDS will be maintained. Faculty and staff members diagnosed as having AIDS will be protected from discrimination in their employment and will be considered as handicapped persons with a life limiting disease as defined by the Rehabilitation Act of 1973.

**Students** — Confidentiality of students with HIV/AIDS will be maintained. Students diagnosed with HIV/AIDS will be protected from discrimination in their educational program, housing accommodation, food services and related student services or opportunities. They will be considered handicapped persons with a life limiting disease as defined by the Rehabilitation Act of 1973.

**Services Provided by the University** — University faculty/staff or students, as part of their work or their education program, will not discriminate against individuals diagnosed with HIV/AIDS who receive their services at MSU. Universal precautions are followed treating each person as potentially being at risk for carrying a significant infectious disease.

Protocol - AIDS-related protocol established by the Centers for Disease Control, U.S. Public Health Service, will serve as a primary, but not exclusive, source of information in reviewing individual cases. Applicable federal and state laws, rules, and regulations as well as university equal opportunity policies covering handicapping conditions will be followed in applying this policy.
B. **AIDS-Related Complex** — No special employment or educational discrimination provisions are recommended for persons with AIDS-related complex (ARC).

C. **Hepatitis B** — No special employment or education discrimination provisions are recommended for persons with Hepatitis B except that standard medical protocol for prevention and treatment shall be followed.

D. **Preventive Medical Protocol** — The university will practice universal precautions in handling bodily fluids and waste and shall adopt standard medical preventative protocol procedures to protect specific employee groups or students who may have potential exposure to such significant infectious diseases either in the workplace or in an educational setting.

E. **Reportable Diseases and Illnesses** — Mandatory reportable conditions will be reported within 7 days to the North Dakota Health Department unless otherwise specified.

F. **Confidentiality** — Information regarding any person affected by infectious disease as defined within this policy will be treated with the same confidentiality as provided for all medical records under university policy.

V. **DRUG-FREE CAMPUS POLICY**

The University prohibits the use, possession and/or sale of alcoholic beverages in classrooms, laboratories, bathrooms, offices, residence halls, University housing units, athletic facilities, State fleet vehicles, other campus building areas, public campus areas, or in outdoor campus areas. The University's drug-free campus policy outlines standards of conduct, the law, health risks, where to turn for help, and violation sanctions for students. A copy of the policy is available at: [http://www.minotstateu.edu/pio/attachments/2014/Drug%20and%20Alcohol%20Policy%20-%202014.pdf](http://www.minotstateu.edu/pio/attachments/2014/Drug%20and%20Alcohol%20Policy%20-%202014.pdf)

VI. **SMOKE-FREE CAMPUS POLICY**

**Rationale for Policy**
To become a “CEO Cancer Gold Standard institution,” Minot State University must help fight cancer, by meeting three goals: risk reduction through lifestyle change, early detection and quality care. Part of reaching these goals includes establishing and enforcing a tobacco-free worksite policy and providing health benefit plan coverage for tobacco treatments (counseling and medications). The health hazards of tobacco use have been well established. Cigarette smoking kills nearly 500,000 Americans annually. Secondhand smoke is a Class A carcinogen (cancer-causing agent); according to the 2006 US Surgeon General’s Report, there is no safe level of exposure to secondhand smoke. Smokeless tobacco contains 28 carcinogens, and according to the Centers for Disease Control and Prevention, is known to increase the risk of developing cancer of the oral cavity. This policy is established to protect the health and promote the wellness and safety of all students, employees and the general public.

**Definition:** For purposes of this policy, tobacco use includes the possession of any lighted tobacco product or the use of any oral tobacco product.

**Policy**
Minot State University is a tobacco-free campus. The use of tobacco on university property, indoors or outdoors or in university vehicles, is prohibited at all times. This prohibition includes smoking in personal vehicles parked on university grounds. The policy applies to all employees, students and visitors. This policy also applies to external individuals or companies renting or using space with MSU and should be reflected in all agreements/contracts with such individuals or companies.
The North Dakota Public Employees Retirement System (NDPERS) Health Care Plan provides a North Dakota Tobacco Cessation Program to all benefitted employees interested in quitting tobacco use. For more information, call 1-877-737-7730. For others, assistance in quitting tobacco use is available locally through the First District Health Unit at 701-852-1376. The North Dakota Tobacco Quitline is also available at 1-800-784-8669.

Responsibility/Enforcement
The responsibility lies with the employees, students and visitors of Minot State University to abide by this policy.

A student in violation should be reported to the Vice President for Student Affairs. An employee in violation should be reported to his or her supervisor. Repeated student violations will result in disciplinary action as outlined in the Student Conduct Policy in the Student Handbook. Repeated employee violations will result in disciplinary action as outlined in applicable State Board of Higher Education policies. Visitors who persist in noncompliance must be directed off university grounds.

Communication
Current smoke-free signs on campus will be replaced with similar, tobacco-free/smoke-free signs. This policy and explanation will be printed in university-approved publications, including the Student Handbook, the Faculty Handbook, and other publications, as deemed necessary. It is also posted on the Staff and Faculty webpage and in the MSU Human Resource Policy and Procedure Manual found on the Human Resources webpage.

Information regarding the Tobacco-free Campus Policy will be included in formal and informal orientations for new students and employees. This policy will be sent out as a reminder, through campus announcements, at the beginning of each semester/term.

Organizers of events are responsible for communicating this policy to attendees.

Ceremonial Use Exception
The tobacco-free policy may not apply to specific activities used in connection with the practice of cultural activities by American Indians that are in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a, All ceremonial use exceptions must be approved in advance by the President of Minot State University or designee.

Tobacco Education
Benefits of Being Tobacco Free
- Normal blood pressure, pulse and body temperature
- Minimize chances of heart attacks
- Cilia in the lungs re-grow, increasing the lungs ability to handle mucus, clean themselves and reduce infection
- Coughing, sinus congestion, fatigue and shortness of breath decreases
- Overall energy level increases
- Decrease chances of lung, throat, kidney and pancreas cancers
- Fresh breath
- Whiter teeth
- Save money!

Within 20 Minutes of Quitting
- Within 20 minutes of quitting: Heart rate drops
- 12 hours after quitting: Carbon monoxide level in your blood drops to normal
• 2 weeks to 3 months after quitting: Heart attack risk begins to drop. Lung function begins to improve
• 1 year after quitting: Added risk of coronary heart disease is half that of a smoker's

Links - For More Information on the Cessation Programs
• American Lung Association
• North Dakota Tobacco Quitline
• First District Health Unit – Tobacco Use Prevention
• First District Health Unit – You Can Quit Classes
• smokefree.gov

VII. SUBSTANCE ABUSE POLICY FOR FACULTY AND STAFF

PURPOSE
The University recognizes that the use of illegal drugs, and abuse of alcohol and prescription drugs is a serious problem within our society. In response to this concern, the University is committed to the following goals: (1) to establish and enforce campus policies regarding the use of alcohol and illegal drugs; (2) to educate members of the campus community for the purpose of preventing alcohol abuse and illegal drug use; (3) to create a campus environment that promotes the individual’s responsibility to him/herself and to the campus community; and (4) to provide resources through counseling and referral services for students, faculty, and staff who experience alcohol and other drug abuse problems.

POLICY
The University prohibits the use of alcohol or illegal drugs, as well as reporting for work or engaging in work or other University-related activities under the influence of alcohol or illegal drugs. Behaviors which suggest alcohol/drug abuse include (but are not limited to) the following:

1. Repeated accidents (on or off campus)
2. Repeated illness absences
3. Chronic lateness or early departures
4. Significantly diminished task performance (with no other explanation)
5. Odor of alcohol, slurred speech, unsteady gait, disorientation, paranoia, hallucinations and other physical signs of impaired function, not caused by a known medical condition.

A faculty or staff member who suspects that a colleague or co-worker is under the influence of alcohol or illegal drugs should contact his/her department chair or supervisor immediately. A faculty or staff member who suspects that a supervisor or department head is under the influence of alcohol or other illegal drugs should contact the next level of supervision or administration.

If a department chair, supervisor, or administrator has been contacted, or suspects that an individual is under the influence of drugs or alcohol, s/he should contact the Director of the Employee Assistance Program (Director of Student Health), Personnel Services, or the next level of administration for assistance. The individual will be given an opportunity to discuss the situation. A person suspected or found to be under the influence of alcohol or other drugs and/or who may be incapable of performing his/her job will be sent home. The individual will be taken home or be sent home in a taxi. Anyone who insists on driving while suspected of being under the influence of alcohol or other drugs will be reported to authorities.

If a person admits to being under the influence of alcohol or illegal drugs, drug or alcohol testing of the individual may not be necessary. In these cases, a mandatory referral will be made for evaluation by a licensed addiction counselor on or off campus.
If it is determined that testing is necessary because of a critical incident in the workplace or because of safety concerns for the individual, colleagues, or co-workers, blood and/or urine testing procedures will be used. The University will pay the cost of all required drug or alcohol testing. Drug or alcohol testing may be conducted at the Student Health Service or other appropriate health agency with test samples sent to a certified laboratory for analysis. Random drug or alcohol testing is not explicit or implicit in this policy.

An individual suspected, or found to be under the influence of alcohol and/or illegal drugs, will be referred for evaluation to a licensed addiction counselor, and, if indicated, will be expected to participate in an appropriate treatment program for rehabilitation. If an individual refuses evaluation, refuses to participate in the appropriate treatment program, if it is indicated, or does not successfully complete the program, s/he will be subject to disciplinary actions up to and including dismissal.

If the individual is able to continue working while involved in the treatment program, his/her supervisor, department head, or department chair will determine if the individual is capable of performing regular job duties. If it is decided that the person should not work at his/her regular job, a temporary alternate job may be offered if one is available for which the person is qualified, or s/he will be placed on leave of absence with or without pay based on the appropriate leave of absence policy.

CONVICTION OF CRIMINAL DRUG STATUTE VIOLATION

Any faculty or staff member convicted of violating a criminal drug statute in this workplace must inform his/her department chair or the supervisor of such conviction (including pleas of guilty or nolo contendere) within five working days of the conviction occurring. Failure to inform will subject the individual to disciplinary action, up to and including dismissal for the first offense. Under the Drug-Free Workplace Act of 1988, the University will notify the federal contracting officer within 10 days of receiving such notice from a faculty or staff member on a federal grant or contract or otherwise receiving notice of such a conviction.

The University reserves the right to offer individuals convicted of violating a criminal drug statute in the workplace participation in an approved rehabilitation or drug assistance program as an alternative to discipline. If such a program is offered, and accepted by the faculty or staff member, then S/He must satisfactorily participate in the program as a condition of continued employment.

AFTERCARE

Upon completion of the initial alcohol/drug treatment program, the individual may be monitored for up to two years by the supervisor/department head as determined by the treatment program.

As a part of the aftercare program, monthly reports from the licensed drug/alcohol treatment program will be submitted to the supervisor or department chair on the individual’s program while s/he is in the program. Reports of relapses and/or missed aftercare meetings also will be reported to the supervisor or department chair by the licensed alcohol/drug treatment program.

Non-compliance in the above-stated elements of the aftercare program will result in disciplinary actions up to and including dismissal.

PRESCRIPTION DRUGS

Although prescription drugs and over the counter drugs are legal, their use may be unsafe under certain circumstances. A person who is using a drug which impairs mental or physical functioning should inform his/her supervisor or department chair. The supervisor will be responsible for evaluating the individual’s ability to work. If necessary, the faculty or staff member may be requested to obtain a statement from the prescribing physician, authorizing the individual to work. If it is deter-
mined that it would be unsafe for an individual to work in the regular work setting, an alternative, temporary job may be offered if one is available for which the person qualified. If no suitable job is available, the impaired person will be sent home.

SALE, TRANSFER, POSSESSION OF ILLEGAL DRUGS
Possession of illegal drugs (except possession of current prescription drugs) is prohibited and anyone in violation shall be subject to discipline. Any person who sells, manufactures, distributes any illegal drugs on University property will be reported to the authorities and will be subject to dismissal.

LEGAL SANCTIONS
Under the North Dakota Century Code, persons in the workplace suspected of violating either alcohol or drug statutes may be referred to civil authorities for prosecution. Conviction of either state or federal alcohol or drug statutes will subject an individual (faculty or staff) to disciplinary action including, but not limited to, a required rehabilitation program, suspension, demotion, or dismissal.

Other drug or alcohol-related statutes may apply in specified circumstance for which a person may be disciplined or prosecuted by appropriate University or civil authorities, respectively. Disciplinary and appeal procedures for faculty are found in the Faculty Handbook and for staff in the Staff Personnel Policy Manual.

SOURCES OF EDUCATION AND COUNSELING
The University offers an Employee Assistant Program (EAP) which can be used for referrals to appropriate support agencies or services. The Vice President for Student Affairs is the contact person.

Trinity Health Center in Minot offers educational programs for persons seeking assistance in drug and alcohol evaluation, intervention, treatment, and aftercare.

Other agencies or licensed addiction counselors are listed in the yellow pages of the telephone book under “Alcoholism Treatment” and “Drug Abuse Information and Treatment.”

REPORTING REQUIREMENTS AND RECORDS RETENTION
A department chair or supervisor who has disciplined a faculty or staff member for alcohol or drug-related workplace problems or who has knowledge of an alcohol or drug-related conviction, shall notify the appropriate vice president in the area the faculty or staff member is employed. The following information will be retained: faculty or staff member’s name, department, date and type of offense, date and type of action taken, and any follow-up or aftercare required. Disciplinary reports on staff shall be submitted to Human Resources, which shall be the official depository of these data. Disciplinary reports on faculty shall be placed in their official personnel file with copies to their dean and vice president. Referral data for evaluation, treatment or aftercare that are non-disciplinary or contain medical information shall be retained by the EAP Director.

The University will undertake, at minimum, a biennial review of the program to (1) determine effectiveness of and changes to the program, and (2) to ensure that disciplinary sanctions are consistently enforced.

VIII. MEDIA RELATIONS POLICY
All public statements, news media interviews, news conferences and news releases concerning MSU general policies and operations, and controversial or sensitive issues, shall be coordinated through the President’s Office and the Public Information Office.
Copies of all written announcements or news releases shall be provided to the President’s Office and the Public Information Office prior to release.

The Public Information Office shall be a primary point of contact for news reporters as a source for referral of media inquiries to other campus personnel.

All campus entities shall keep the President’s Office and the Public Information Office briefed and informed about activities, issues and operations.

**IX. VISUAL REVIEW POLICY**

Regardless of where it is to be printed, ALL publications and print materials must be submitted to Publications and Design Services for approval prior to being produced. Along with printed pieces, this also includes any type of advertising, promotional materials, video and broadcast media.

Materials which must adhere to this policy include:
- any printed material that promotes specific programs, departments, activities, or special events at Minot State University. Note: While responsibility for originating and funding these materials rests with the academic unit, Publications and Design Services must approve these publications before they are printed
- forms, invoices, and order blanks — especially those which will be sent off campus in the conduct of university business
- surveys, polls, questionnaires, or any material distributed with the express purpose of gathering information about perceptions of Minot State
- any form of advertising, regardless of circumstance — includes any classified ads (open positions)
- merchandise to be sold or given away, such as coffee mugs, pens, etc.
- video and broadcast media such as videotapes, CDs, broadcast advertising, and other multimedia projects

Exceptions to this policy include:
- course syllabi
- class handouts
- internal (on-campus) communications

To ask questions or submit a project for approval, contact Publications and Design Services.

**X. POLICIES GOVERNING HUMAN SUBJECTS RESEARCH**

**IRB (Institutional Review Board)**

All universities, hospitals, and other institutions that conduct research using humans as research subjects are required by law to establish a committee responsible for reviewing proposed research involving human subjects to ensure that the rights and welfare of the subjects are protected. To comply with this law, Minot State University has established the IRB.

Minot State University’s IRB policy requires that all research involving human subjects, whether funded by an external organization or not, must comply with regulations for human subject research established by the U.S. Department of Health and Human Services and described in the Code of Federal Regulations 45 CFR 46 and by Minot State University IRB policies. This means that projects involving human subjects must have IRB approval.

Research that involves human subjects must have full IRB approval prior to implementation. These application forms can be obtained at [http://www.minotstateu.edu/IRB/](http://www.minotstateu.edu/IRB/)
Agreement for Research in Minot Public Schools

Introduction
Minot State University and the Minot Public School District (MPSD) agree to work cooperatively in conducting education-related research involving students or teachers in the Minot School District. This Agreement, which is effective on the 18th day of April, 1994, states the procedures to be used when either party decides to undertake such research.

Requests Emanating from the Minot School District
Teachers, staff, or building-level administrators at Minot School District who desire research assistance from students or faculty at the University shall provide the following information to their immediate supervisor:
1. the name of the project director
2. the topic to be investigated
3. an overview of the research methodology; types of data to be collected; etc.
4. a statement of the desired outcome and/or expectations
5. estimated person-hours needed from students or faculty at the University to conduct this research and prepare the desired product
6. the estimated time frame for collecting the data
7. estimated time frame for submitting a report

This information is conveyed along the chain of supervisory responsibility to the Superintendent of the Minot Public School District. The Superintendent of the Minot Public School District conveys the request for research assistance to the Vice President for Academic Affairs (VPAA) at the University.

The VPAA takes the request to the Dean of the appropriate college(s), who conveys the request to the appropriate Department Chair(s). The Chair(s) conveys the request to the faculty. Interested and designated faculty shall contact the Superintendent of the Minot Schools and provide notification of this action to appropriate administrators at the University.

Requests Emanating from Minot State University Faculty
University faculty who are interested in doing research which is restricted to the Minot Public School District shall submit the appropriate information for obtaining a human subjects approval to the Chair of the Institutional Review Board (IRB) and concurrently provide the following information to the VPAA:

1. the name of the project director
2. an explanation of the proposed research
3. the type of data to be collected (Specific attention needs to be given to whether this data already exists, such as California Tests of Basic Skills, or needs to be collected in the course of the research.)
4. the number and type of participants involved in the research
5. the amount of time each participant will spend in activities or assessments that are not part of their normal school activities
6. benefits to the participants of the study, MPSD teachers or administrators
7. the estimated time-frame for collecting the data
8. the estimated time-frame for completing the report

Upon completion of his/her review and receipt of an IRB approval, the VPAA will convey this request for research to the Superintendent of the Minot Public School District.

Culminating Report
The project director for all research conducted under this Agreement will submit a final report of the research results and conclusions to the Superintendent of the Minot Public School District and to the Vice President for Academic Affairs at the University within ninety (90) days of project completion.
XI. MINOT STATE UNIVERSITY TEXTBOOK SELECTION POLICY

A faculty member who assigns textbooks or other curricular materials for which he/she receives royalty payments or other remuneration, and chooses to assign that remuneration, shall register that decision by his/her signature on his/her textbook adoption form.

A faculty member who assigns textbooks or other curricular materials for which he/she receives royalty payments or other remuneration, and chooses to retain that remuneration, must request approval from his/her department/division chair. This approval shall be registered by the chair’s signature on the faculty member’s textbook adoption form.

If the faculty member is chair of the department/division, he/she must request approval from the dean of his/her college, which shall be registered by the dean’s signature on the textbook adoption form.

Any faculty member who is refused this approval may appeal to the Faculty Senate for a reversal of the decision. The appeal procedure shall commence when the President of the Faculty Senate receives a written letter from the faculty member requesting a review of the decision. The Faculty Senate shall vote on whether to reverse or uphold the decision. (Implementing SBHE 611.9)

XII. SALES OF EDUCATIONAL MATERIALS

Required classroom/laboratory materials which are written or otherwise prepared by the University personnel for sale to students must be sold through the University Bookstore and are governed as follows:

- Materials printed on-campus must be sold at a price which includes only production and distribution costs.
- Materials printed off-campus for distribution through the University Bookstore must first receive the approval of the chair and the dean.
- Bookstore cost of materials published by commercial printing houses for national distribution will be set by the publisher.

The University will not copy, and the Bookstore will not sell, any materials that violate federal copyright laws. Any materials using copyrighted information without the proper release forms from the publisher may not be copied or sold on the campus. This includes but is not restricted to:

- Textbooks/manuals.
- Articles/pamphlets.
- Software
- Videotapes/recordings

XIII. CONFLICT OF INTEREST POLICY

A. SBHE Policy 611.4 Employee Responsibility and Activities: Conflict of Interest

1. An officer of the North Dakota State Board of Higher Education authorized to sell or lease any property or make any contract in the officer’s official capacity is subject to the provisions of N.D.C.C. Section 12.1-13-03 and may not be interested in any such sale, lease or contract.

2. Pursuant to N.D.C.C. Section 48-02-12, employees of the Board may not have any interest in a public construction or repair contract.

3. An employee of the Board may not have an interest in any contract involving the expenditure of public or institutional funds entered into by the institution that the employee serves or by the Board unless:
   a. N.D.C.C. Sections 12.1-13-03 and 48-02-12 do not apply; and
b. The contract is approved by the institution’s chief financial officer or, if the employee in question is the chief financial officer or president of an institution or an officer of the Board, by the Board, following full disclosure of the employee’s interest.

4. All employees involved in projects receiving federal funds shall consult applicable federal laws and regulations and comply with conflict of interest rules which may govern federal grants or other sponsored agreements.

5. An officer or other employee who violates this policy is subject to dismissal or other disciplinary action.

XIV. INTELLECTUAL PROPERTY POLICY

Minot State University’s Intellectual Property Policy is aligned with and subject to the North Dakota State Board of Higher Education Policy, Section 611.2, Employee Responsibility and Activities: Intellectual Property, as revised June 20, 2002.

1. General Principles

Intellectual property is the creative output of the human mind including, but not limited to, Copyrightable Work, Inventions, Trademarks, and Tangible Research Property. Such output is protectable under certain federal, state, and international laws. In academia, intellectual property is plentiful and an important result of the university education and research programs. Intellectual property is a personal property right and as the possessor of a personal property right, the individual has certain benefits including ownership and the ability to control most use of the product.

The primary purpose of the following policy is to protect the intellectual property of individuals, Minot State University (MSU), and research/grant sponsors while at the same time encouraging and promoting research and scholarship based on the traditional principles of the academic profession. Products of this research and scholarship may constitute Intellectual Property with potential for financial benefit to the individual(s) involved, MSU, and any external sponsors. This policy establishes guidelines to support faculty, staff, and students in identifying, protecting, and administering Intellectual Property and defining the rights and responsibilities of all involved. This policy aligns with the policy of the North Dakota University System (NDUS) and governs all Intellectual Property discussion involving MSU.

Any person who is uncertain as to how to identify a potential Copyrightable Work, Invention, Trade Secret, or Tangible Research Property, or how MSU implements any of these polices should contact the Vice President for Academic Affairs.

2. Definitions

a. Author(s): Person who creates a Copyrightable Work. The Author’s Copyright protection exists from the time the authored work is created in a fixed tangible form. The authored Work immediately becomes the property of the Author who created it.

b. Copyright: A form of protection that is provided for under the U.S. constitution to the author(s) of an ‘original Work of authorship’ that is in tangible form.

c. Copyright Agreement: A written and signed agreement between the Author(s) and MSU that explicitly defines the ownership of the Copyrightable Work, any control rights in cases of Mediated Courseware, any reimbursement for Significant Use of MSU’s resources, and the sharing of royalties in licensing agreements.
d. Copyrightable Work: An original Work of authorship which has been fixed in any tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Examples of Copyrightable Work include writings such as books or journals; software; computer programs; musical works (including accompanying words); dramatic works (including any accompanying music); pantomimes and choreographic works; pictorial, graphic, and sculptural works; videos; multimedia products; sound recordings; motion pictures and other audiovisual works; sound recordings; and architectural works. Not protected by Copyright law is anything that is not in tangible form, such as choreographic work that has not been notated or recorded; ideas or concepts; lists showing no originality; type styles; titles; names; short phrases; slogans; factual information; public domain information; data or know-how; works that contain no originality; works created by the U.S. Government. Any Work that is also an Invention shall be governed by the General Patent Policy and not the General Copyright Policy.

e. Cumulative Net Royalties: The cumulative lifetime gross royalties and licensing or assignment fees less the expenses incurred by MSU in procuring, protecting, preserving, maintaining, marketing, and licensing the Patent and related property rights including legal fees associated with the Invention, fees for patentability and marketability searches, fees arising out of litigations, fees for legal advice or any fees or costs directly attributable to the Invention being licensed. Indirect costs, overhead, or other institution costs usually associated with operation of MSU and not directly attributable to the Invention will not be deducted from gross revenues.

f. Intellectual Property: Collectively, all forms of property created by the mind including, but not limited to, Inventions, Copyrightable Work, Trademarks, and Tangible Research Property.

g. Intellectual Property Protection Procedures: The procedures established by MSU for review of Inventions.

h. Invention: A process, method, discovery, device, plant, composition of matter, or other Invention that reasonably appears to qualify for protection under the United States patent law (including, but not limited to, utility patent, plant patent, design patent, certificate of Plant Variety Protection, etc.) whether or not actually patentable. An Invention may be the product of a single inventor or a group of inventors who have collaborated on a project. An Invention is something that is new, did not exist before, and is not known to others who have the same ordinary skill in the art to which the Invention pertains and is created by independent investigation and experiment.

i. Invention Disclosure and Assignment: A written document which allows one skilled-in-the-art to fully understand and practice an Invention.

j. Inventor: An individual(s) who contributes to the conception or the reduction to practice of an Invention. An Inventor may be a student, technician, employee in any capacity, or a junior or senior faculty; and under U.S. patent law all inventors are treated equally.

k. Investigator: An investigator is any MSU employee, researcher, or student engaged in the conduct of research, or anyone using MSU support, unless otherwise agreed in a prior contractual agreement.

l. Mediated Courseware: Teaching aids created and/or deployed electronically, including online delivery courses. Mediated Courseware may incorporate text, graphics, video, and audio elements. Examples of such materials include, but are not limited to, hypertext modules, simulation software, web sites, and databases containing numbers, images, or text.
m. Patent: A Patent is a grant to the owner of or the assignee of the Patent the right to exclude others from making, using, or selling the invention for a term of twenty years from the date of the Patent application. A Patent will be issued for any Invention of a new or useful process, machine, manufacture or composition of matter or any new and useful improvement thereof. A Patent does not give anyone, including the owners of an issued Patent, the right to practice the Invention. A Patent is made by the U.S. Patent and Trademark Office (PTO), usually within 3-4 year’s submission of the application.

n. PMO: A PMO, or Patent Management Organization, is a third party, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986, that has as one of its primary functions the management an institution’s Inventions and receives Licensing Revenue and gifts.

o. Public Disclosure: Describing an Invention in a printed publication, a patent application or at a conference, meeting, or other public gathering in the United States or any other country; sale or offered for sale of Invention; use of the Invention, other than as part of experimental use in the United States; or disclosure to any person who is not required to maintain the Invention’s confidentiality.

p. Research Data: Recorded factual material commonly accepted in academic study as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. Data may be a property right but is not considered Copyrightable Work (see Tangible Research Property).

q. Significant Use of MSU’s Resources: An Author’s use of another employee’s time (including that of student employees) or MSU’s facilities or equipment that appreciably increases MSU’s costs beyond those normally incurred in support of an MSU employee. Significant Use does not include the normal use of an MSU employee’s time, facilities, or equipment commonly available to faculty, staff, or the public, such as libraries, internet access, office space, office equipment, computers, and/or office supplies. Unless otherwise agreed, Significant Use also does not include the use of MSU’s developmental leave time, so long as it does not appreciably increase MSU’s costs beyond those normally incurred in support of an MSU employee. Significant Use also does not include the first $5,000 of MSU costs on a project.

r. Service Mark: The same as a Trademark except that it identifies and distinguishes the source of a service, rather than that of a product, that is performed by one person for the benefit of a person or persons other than himself, either for pay or otherwise.

s. Tangible Research Property: Tangible items produced in the course of research including, but not limited to, such items as biological materials, engineering drawings, integrated circuit chips, computer databases, prototype devices, circuit diagrams, and equipment. Individual items of Tangible Research Property may be associated with one or more intangible properties, such as inventions, Copyrightable Work, and Trademarks. An item of Tangible Research Property may be the product of a single Author or a group of individuals who have collaborated on a project.

t. Trade Secret: Information, including a formula, pattern, compilation, program, device, method, technique or process, that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.
u. Trademark: A distinctive word or combination of words, name, symbol, or device that is used in interstate trade of goods to indicate the source of the goods, their physical commodities, which may be natural, manufactured, or produced, and to distinguish them from the goods of others.

v. Work Made for Hire: Defined pursuant to Federal Copyright Law which includes a Work prepared by an employee (staff, faculty, or student employee) within the scope of employment or a Work specifically ordered, commissioned, or created pursuant to a written agreement identifying the Work as a Work Made for Hire. Unless a Copyright Agreement provides otherwise, software created by employees within the scope of their employment and not treated as Mediated Courseware shall be treated as a Work Made for Hire.

3. General Copyright Policy
   a. Except as otherwise explicitly provided under this policy or applicable law, an employee who creates a Work retains Copyright ownership of the Work. If there has been Significant Use of MSU’s Resources, the provisions of section 3b of this policy shall apply.

   b. If there has been Significant Use of MSU’s Resources (as defined in section 2q) to create a Copyrightable Work, the ownership of which is vested in the individual employee, MSU shall be reimbursed out of the royalties, licensing, or assignment fees; in accord with a Copyright Agreement between the employee and MSU, up to that amount that constitutes MSU’s Significant Use (section 2q).

   c. If an employee is employed or commissioned by MSU or agencies of MSU for the creation of Work (Work Made for Hire), or if by prior agreement they are assigned to produce or develop Work in the course of their regular duties (Work Made for Hire), and if such Work is deemed appropriate for copyright, it must be reported to MSU pursuant to its copyright review procedure. In such instances, MSU shall have the first option to secure Copyright in the name of MSU. Should MSU decide, in writing, it would not be appropriate to secure Copyright, the employee then may proceed to personally secure the Copyright.

   d. Copyright ownership of Work developed as a result of Work supported partially or fully by an outside agency through a contract or grant shall be determined in accordance with the terms of the contract or grant. In those cases where Copyright ownership is shared between the sponsor and MSU, the employee may share in the royalties produced by the Work in accord with a Copyright Agreement between the employee and MSU. In those cases where Copyright ownership is vested in MSU, MSU shall have the first option to secure Copyright in the name of MSU. Should MSU decide, in writing, it would not be appropriate to secure Copyright, the employee then may proceed to personally secure the Copyright.

   e. Royalties received as a result of Copyright ownership by MSU will be disbursed with a minimum of 30 percent to the employee(s). The remainder would be distributed according to the negotiated Copyright Agreement. No limit shall be set on the absolute amount of royalty income the employee(s) may earn, except that it shall be in keeping with NDUS policy.

   f. When an Author creates a Copyrightable Work, the following steps should be followed to establish a Copyright Agreement between the Author and MSU:
      (1) The Author will initiate the process by delivering a copy of the Work and a proposal for the terms of the Copyright Agreement to Vice President for Academic Affairs.
      (2) After review, the Vice President for Academic Affairs will forward a proposed Copyright Agreement for review and approval by the appropriate department or division chair, aca-
ademic dean, and the Vice President for Administration and Finance. Generally, the NDUS Board Attorney will also review the Copyright Agreement prior to final approval by MSU.

(3) A Copyright Agreement will be entered into between the Author and the Vice President for Administration and Finance on behalf of MSU.

(a) The Vice President for Academic Affairs shall be responsible for Copyright registration of Work owned by MSU, and for administering contracts with its Authors, including the responsibilities associated with maintaining records for Copyright registration, royalty collection and distribution, marketing, and such other actions as are appropriate.

(b) Authors of Work for which ownership vests in MSU shall warrant that such Work does not infringe any preexisting Copyright and shall cooperate with MSU in pursuit of Copyright protection.

g. Copyright is conveyed automatically when the work is created and fixed in a tangible form. To convey Copyright, the author is advised to do the following:

(1) Use the © seal, “Copyright” or “Copr.”

(2) Note year first created

(3) Name of the author of the Copyright: © 2008, John Doe

h. Authors wishing to register a Copyrightable Work with the United States Copyright Office may consult with the Vice President for Academic Affairs for assistance. Costs of copyright registration will be assumed by the Author.

4. Mediated Courseware.

a. Self-initiated Mediated Courseware. When an employee develops Mediated Courseware, other than an online delivery course, without specific direction by MSU, unless otherwise agreed, the ownership of the courseware shall remain with the employee. Normally, no royalty, rent or other consideration shall be paid to the employee when that Mediated Courseware is used for instruction at MSU and such Mediated Courseware shall not be used or modified without the consent of the employee.

b. MSU-directed Mediated Courseware. When MSU directs in an employment contract the authoring of a specific Mediated Courseware, such as but not limited to an online delivery course, the resulting Mediated Courseware belongs to MSU and MSU, in coordination with the department or division here the courseware is applied, shall have the right to revise it and decide who will utilize the Mediated Courseware in instruction. MSU may specifically agree to share revenues and control rights with the employee.

c. Self-Initiated Online Delivery Courses. Self-Initiated online delivery courses developed and delivered by the Author while an employee of MSU belong jointly to the Author and to MSU. Sections 4d and 4e apply.

d. While the Author is an employee of MSU, the MSU-directed Mediated Courseware, including both self-initiated and MSU-directed online delivery courses, shall not be sold, leased, rented or otherwise used in a manner that competes in a substantial way with the for-credit offering of the employee’s own Institution, Minot State University, unless that transaction has received the approval of the Vice President for Academic Affairs. MSU shall have a perpetual, non-exclusive royalty-free right to use such courseware for archival research purposes. Should approval be granted to the Author to offer an online delivery course outside MSU, the provisions of section 4f of this policy apply.
e. Development and use of MSU directed Mediated Courseware shall be reported to the department or division chair, academic dean, and the Dean of the Center for Extended Learning.

f. If the Author of Mediated Courseware seeks and is granted approval to use MSU-directed Mediated Courseware outside of MSU either during or after the Author’s employment with MSU, a Copyright Agreement between the Author and MSU must be completed. The Copyright Agreement will be established between MSU and the Author through the Dean of the Center for Extended Learning and the Vice President for Academic Affairs.

5. Copyrightable Software.

Unless a separate written agreement provides otherwise, software created by employees within the scope of their employment and not covered under Mediated Courseware in section 4 of this policy shall be treated as a Work Made for Hire, owned by MSU and commercialized pursuant to the General Patent Policy, with the employee(s) getting a minimum of 30 percent of the net royalties and fees.

6. Student Work.
a. The ownership of Copyright of student Work is governed by the following:
   (1) Copyright ownership of student Work that is performed in whole or in part by the student with financial support in the form of wages, salaries, stipend, or grants from funds administered by MSU shall be determined in accordance with the terms of the support agreement, or in the absence of such terms, shall become the property of MSU.
   (2) Copyright ownership of student Work generated by research performed in whole or in part utilizing equipment or facilities provided by MSU under conditions that impose Copyright restrictions shall be determined in accordance with such restrictions.
   (3) Students will own the Copyright to their Work produced as students of MSU, but not within the provisions of (1) and (2) above, as follows:
      (a) Intellectual property (writings, artwork, projects, etc.) produced as a result of general coursework assignments are the property of the student or students. Assignments requiring multiple students to participate are the property of those students, and they have the requirement to decide for themselves rights and distribution.
      (b) Intellectual property produced as a result or by-product of guided supervision of a faculty member on a special project is the property of the faculty member. Such work arrangements should be documented in a separate agreement between the faculty member and the student(s) involved.
      (c) MSU recognizes that copyright for master’s theses and projects remains with the students.
      (d) A student must, as a condition to a degree award, grant royalty-free permission to MSU to reproduce and publicly distribute, including by electronic means, copies of the student’s Work.
   (4) Where there is Significant Use of MSU’s Resources, Copyright ownership shall be determined under section 3b of this policy.

b. Ownership of student Inventions shall be governed by the Patent Policy in section 7 of this policy.

7. Research Data

In its role as grantee or contractor, MSU owns research data as a result of its contractual obligations. By tradition, and as a practical matter, the investigator retains possession of data on behalf of MSU. Thus investigators are custodians or stewards of research data, while MSU retains ownership of such data. Both MSU and the investigator have rights and responsibilities with regard

a. The North Dakota State Board of Higher Education and Minot State University encourage the faculty, staff, and others associated with MSU to seek Patents on Inventions as a method of bringing recognition and remuneration to all parties involved.

b. Section 9 outlines the procedures for processing such Inventions or discoveries. The Inventor(s) shall submit an Invention Disclosure to MSU, through the Vice President for Academic Affairs, at the earliest possible time after the conceptualization or creation of the Invention but at least 60 days prior to Public Disclosure of the Invention. At any time during the processing of such an Invention, the rights, title and/or interest of such Inventions may be assigned to a PMO. MSU’s Vice President for Administration and Finance, or designee, shall sign appropriate documentation acknowledging the assignment. The PMO will assume obligations as appropriate and provide timely documentation to MSU, if requested.

c. A patentable discovery may arise from the development of a new and useful process, device or apparatus, article of manufacture, composition of matter (including chemical compounds, microorganisms, and the like), plant, or related improvement, or a new use for a known material or device. A public “enabling” disclosure is one which will enable others in the same or a related field to fully understand and practice the invention. MSU’s “patent review procedures” shall assure provision of guidelines to the Inventor(s) in defining what constitutes a public “enabling” disclosure.

d. All rights to and interests in patentable discoveries resulting from research or investigation conducted in the course of the Inventor’s employment with MSU including, but not limited to, the performance of a grant, contract, or award made internally, by an extramural agency, or by a third party, or with the use of MSU’s resources shall be the sole and exclusive property of MSU; no other person or entity shall have rights of ownership or interest in such Inventions. Any and all exceptions to this Policy shall be determined and approved by the Vice President of Academic Affairs and the Vice President for Administration and Finance. In all other cases, MSU shall have the right of first refusal to the title of all patentable discoveries derived with the use of MSU’s facilities, gifts, grants, or contract funds through MSU, subject to restrictions arising from the overriding obligations of MSU pursuant to gifts, grants, contracts or other agreement with outside organizations. The Inventor shall provide all necessary declarations, assignments, or other documents as may be necessary in the course of processing the Invention evaluation, patent prosecution, or protection of patent rights to assure that title in such Inventions shall be held by MSU or other parties as may be appropriate under the circumstances.

e. This Policy applies to all Inventions made by MSU faculty, staff, students, trainees, volunteers, or others if such Inventions are:

1. the result of research performed by or under the direction of any faculty member, staff, or student, the cost of which was partially or wholly paid for with funds under the control of or administered by MSU and/or
2. the result of an investigation by the faculty, staff, students, trainees, volunteers, or others utilizing MSU’s facilities, laboratories, or other resources available to such faculty, staff, students, trainees, volunteers or others because of their status within MSU.

f. All Inventions conceived or actually or conceptually reduced to practice in the furtherance of research or investigation conducted by MSU’s faculty, staff, students, trainees, volunteers, or others shall be promptly disclosed in writing to the Vice President for Academic Affairs. The
Invention Disclosure form should be used for the reporting process and may be obtained from the Vice President for Academic Affairs.

g. All rights to and interests in Inventions arising in the course of research or investigation sponsored by MSU, any government or private agency, or other sponsored research are controlled by the terms of the applicable Intellectual Property agreement, which must be reviewed, negotiated and approved by the Vice President for Academic Affairs and the Vice President for Administration and Finance. In the absence of provision to the contrary contained in any such research or investigation agreement or under Federal law or regulations, the following shall apply:

(1) The Inventor has the right to:
   (a) receive notice within six (6) months of MSU’s intention to file a Patent application or otherwise to retain title to the Invention after the Invention Disclosure is made to MSU.
   (b) receive a share of any licensing fees or royalties received by MSU from the commercialization of the Invention according to the distribution Schedule contained in section 7i.
   (c) receive from MSU title to any Invention subject to this Policy in the event MSU elects not to retain title; and
   (d) promote timely publications of his/her research findings provided that an Invention Disclosure has been made.

(2) The Inventor is obligated to:
   (a) promptly file an Invention Disclosure including the name of any collaborator.
   (b) assign title to the Invention to MSU.
   (c) cooperate to the extent necessary as determined by MSU in the reasonable delay of publication to allow for a timely submission of a Patent application;
   (d) cooperate in prosecuting all Patent applications and other required documents;
   (e) participate in the defense of such Patents during prosecution for interference or infringement; and
   (f) assist with licensing or marketing efforts related to the Invention.

(3) The Institution has the right to:
   (a) assign to the Inventor title to any Invention, subject to this Policy, for which MSU chooses not to retain title.
   (b) assign the rights or interests of any Patented or unpatented Invention owned by MSU to a PMO, or
   (c) make, use, license, sell, or exchange rights to a third party the rights or interests of any Patented or unpatented Invention owned by MSU, and exclude others from doing so.

(4) The Institution is obligated to:
   (a) make faculty, staff, students, trainees, volunteers or others aware of this Policy and of any ongoing agreements with external sources to evaluate and/or market such Inventions;
   (b) after the Invention Disclosure is filed, determine whether MSU chooses to retain title and/or file a Patent application and give notice of MSU’s intention and/or Patent application to an Inventor within six (6) months after the Invention Disclosure is made;
   (c) expedite Intellectual Property protection, and
   (d) distribute Licensing Revenue received by MSU for any Invention according to the distribution Schedule contained in section 7i.
h. In no instance, and regardless of ownership of the Patent, may MSU’s name be used in connection with the marketing of the Invention without the express written permission of MSU.

i. Subject to restrictions arising from obligations of MSU pursuant to gifts, grants, contracts, or other agreements with outside organizations, MSU agrees, for and in consideration of the assignment of Invention rights, to pay annually to the named inventor(s), or to the inventor(s)’ heirs, successors, or assigns, Cumulative Net Royalties according to the Distribution Schedule below.

Distribution Schedule

<table>
<thead>
<tr>
<th>Cumulative Net Royalties</th>
<th>Inventor</th>
<th>Department/Division</th>
<th>Institution/PMO</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;$25,000</td>
<td>50%</td>
<td>10%</td>
<td>40%</td>
</tr>
<tr>
<td>$25,000-50,000</td>
<td>45%</td>
<td>10%</td>
<td>45%</td>
</tr>
<tr>
<td>&gt;$50,000</td>
<td>40%</td>
<td>10%</td>
<td>50%</td>
</tr>
</tbody>
</table>

j. When there are two or more Inventors, each Inventor shall share equally in the Inventor’s share of Cumulative Net Royalties, unless all Inventors have agreed in writing to a different distribution of such share. The Department/Division’s share shall follow the Inventor’s distribution share of Cumulative Net Royalties. The Vice President of Administration and Finance, along with the Vice President for Academic Affairs, will have final authority in resolving any dispute between Inventors as to the sharing of royalties between them.

k. Cumulative Net Royalties received by MSU and the Department/Division must be used to support research, to further the development of Intellectual Property, and/or to protect MSU’s Inventions.

l. An Inventor voluntarily leaving the employment of MSU for employment elsewhere will have the Cumulative Net Royalties due Inventor reduced by 75%, except in the event that the Inventor participates in the formation of a new business affiliated with MSU using the Invention technology.

m. The Inventor obligations under section 7g(2) will not be terminated upon termination of employment from MSU.

n. The provisions of this section apply to plan variety protection unless inconsistent with MSU policy.


The Vice President for Academic Affairs is also responsible for the administration of the Intellectual Property Protection Procedure, financial rights, negotiation, and management of Invention records. If an Invention is assigned to a PMO during the Intellectual Property Protection Procedure, the PMO shall be responsible for its administration and will provide MSU with the appropriate documentation if requested. This Intellectual Property Protection Procedure serves as a guide to the MSU community in meeting the disclosure and reporting requirements of Minot State University, North Dakota State Board of Higher Education, and cooperating agencies.

a. Intellectual Property and/or Invention Agreement Review. Prior to executing any contract that binds MSU or the Inventor with regard to Intellectual Property, such contract will be submitted to the Vice President for Academic Affairs, who will ascertain that the Intellectual Property clauses in sponsored projects are acceptable to the principal investigator and MSU and are consistent with policies of the North Dakota State Board of Higher Education, and
if appropriate, to Federal Law. Such agreements include confidentiality, non-disclosure, material transaction, consulting and like agreements containing provisions for proprietary information and contractor, sponsored research or development, licensing or like agreements containing provisions for Intellectual Property. The Vice President for Academic Affairs will verify that the terms of a contract will not willfully or knowingly infringe on any background technology on which MSU has previously secured a Patent or on any proprietary agreement that MSU may have with another party.

b. Documentation and Tracking. Inventors are responsible for recording and maintaining the discovery records of all potentially patentable discoveries derived through MSU activity. Bound, dated, witnessed documentation is the encouraged method for maintaining such records. Any questions regarding the proper method for maintaining such records should be directed to the Vice President of Academic Affairs.

c. Invention Disclosure. The Invention Disclosure will be completed by the Inventor and submitted to the Vice President for Academic Affairs at the earliest possible time after the conceptualization or creation of the Invention but no less than 60 days prior to Public Disclosure of the Invention. The Vice President of Academic Affairs and the Vice President of Administration and Finance will review the Invention Disclosure and recommend whether MSU request that the Inventor sign an agreement with MSU to assign rights to MSU for the Invention. Upon completion of the Invention Disclosure and Assignment, the Invention will be considered approved by MSU for pursuit of Patent. The Vice President for Academic Affairs will then work with the Inventor and an external third party to file a U.S. Patent application on the Invention. The Vice President for Academic Affairs will also contact the appropriate Federal agency providing grant support of the Invention Disclosure, in compliance with U.S. 37 CRF Part 401 and 35 U.S.C. 200-212.

d. The Vice President for Academic Affairs and the Vice President for Administration and Finance will review each Invention before committing MSU or other funds in the pursuit of a Patent covering the Invention, protection of the Invention as a Trade Secret, protection of the Invention under Copyright or any other form of protection of the Invention as Intellectual Property. Such an evaluation should consider all aspects of the Invention, prior art search and assessment, discovery’s gross market potential, potential licensees, financial return, obligation to sponsoring parties, and other factors impacting the investment of time and funds to complete the patent application process. The review may entail the commission of market, patentability, or similar studies. The Invention rights may be returned to the Vice President for Academic Affairs and the Inventor at any time during the review with a request for additional information.

e. The Vice President for Academic Affairs and the Vice President for Administration and Finance will review, recommend filing or not filing, and prioritize, if necessary, the filing of a Patent application on the invention.

f. Patent Application. Upon approval by MSU to pursue protection of the Invention, the Vice President for Academic Affairs will:
   (1) notify, if necessary, the appropriate Federal agency of MSU’s desire to retain title to the invention;
   (2) work with the Inventor and a third party to file a U.S. Patent application on the Invention within the appropriate period.

g. Documentation. As necessary to protect the interests of the Inventor and MSU, and as allowed by law, the records supporting the Invention protection and appropriate documents
with any commercialization organization will be maintained as confidential. The official
Invention file shall include the following items, if and when they are created:

1. Documentation identifying the sources of funds used to cover the costs of the Invention.
2. The costs of Invention protection. In the event that third party pays for prosecution
costs, said costs will be reduced accordingly.
3. Any obligatory contract or grant terms and conditions under which the discovery was
conceived or developed.
4. Initial records of the Invention (ie notebook references, drawings, sketches, etc.).
5. Any formal records of the Invention required by sponsors.
6. Invention Disclosure documents submitted by the Inventor(s).
7. Invention Disclosure documents submitted to a Patent agent or attorney.
8. Inventor and MSU assignment agreements.
9. Documentation of the approval by the Vice President for Administration and Finance
and the Vice President for Academic Affairs decisions to proceed in securing a Patent,
the source(s) of funds used in covering the costs, and the Patent attorney or other profes-
sional service involved in securing the Patent.
11. The final draft of a Patent application as filed.
13. A disbursement of funds agreement identifying financial returns to the Inventor, MSU,
and any Patent development/commercialization entity.
15. Any licenses, equity positions, or other commercialization documents which determine
financial returns to the Inventor and MSU and its entities.
16. Obligatory confirmatory licenses to any sponsor.
17. Documentation of any abandonment of any Patent by MSU, any agreements transferring
title back to the Inventor, or any obligatory transfer of title to the sponsor.

The Inventor shall be provided copies of the items 1-17 to the Vice President for Academic
Affairs who will establish the for official MSU Documentation file for the Invention.

h. Commercialization. Upon the decision to pursue commercialization of an Invention, the
Vice President for Academic Affairs shall assist the Inventor in outlining a commercialization
plan. The commercialization plan should give careful consideration to steps that could be
taken to protect the value of the Invention, including the appropriate use of confidentiality
agreements, material transaction agreements, and other Intellectual Property agreements. A
copy of this plan and annual progress reports shall be provided by the Inventor to the Vice
President for Academic Affairs, the Vice President for Administration and Finance, and any
applicable cooperating agency. The principal elements of this plan shall be incorporated into
any licensing agreement between MSU and any commercialization organization.

i. Patent and/or Intellectual Property Assignment and/or Licensing. MSU authorizes the Vice
President for Administration and Finance to establish a means of administering and managing
MSU’s Invention assets which (1) expedites their commercialization, (2) provides means
for defense of a Patent, (3) maintains the secrecy of Trade Secrets and (4) provides financial
returns to the Inventor and MSU. For non-PMO commercialization organizations, the Vice
President for Administration and Finance will be responsible for reviewing with General
Counsel, negotiating and approving all agreements with third parties relating to the assign-
ment of Invention rights. The Vice President for Administration and Finance is authorized to
sign licensing or like agreements on behalf of MSU.
j. Licensing Revenue Collection and Cumulative Net Royalties Distribution. Unless assigned to a PMO, the Vice President for Administration and Finance will be responsible for the collection of all Licensing Revenue and the payment of all fees under section 8i as appropriate, upon approval by General Counsel, and the distribution of Cumulative Net Royalties under section 8i. Documentation of the distribution of funds to the Inventor, MSU, any cooperating agencies, and other parties will be prepared by the Vice President of Administration and Finance or PMO, as appropriate, and signed by all parties. A PMO will provide MSU a copy of such documentation if requested.

10. General Trademark Policy
   Trademarks developed by faculty, students, and staff of the Institution shall be treated in the same manner as Inventions. See Section 9 (above).

11. Transfer of Rights
   MSU may assign or transfer ownership rights in Intellectual Property to independent foundations created for the purpose of obtaining or administering and marketing MSU’s Intellectual Property, receiving gifts, or supporting or promoting MSU or MSU’s research.

   MSU employees are responsible for ensuring that the terms of their consulting agreements with third parties do not conflict with their commitments to MSU. Each employee shall make the nature of the employee’s obligations to MSU clear to any third party for whom the employee expects to consult. Specifically, the scope of the consulting services must be distinguished from the scope of research commitment to MSU.

XV. COPYRIGHT POLICY

Members of the faculty who, in the course of scholarly pursuits of their discipline, write articles and books, are encouraged to seek and retain copyright ownership of these works.

If the University directly supports the production of a copyright eligible work, the ownership of which is vested in the individual faculty member, the University shall be reimbursed out of the royalties, in accordance with a written agreement between the faculty member and the University, up to the amount of the institution’s direct support.

If faculty are employed or commissioned by the University or agencies of the institution for the production of materials, or if by prior agreement they are assigned to produce or develop materials as educational or instructional aids in the course of their regular duties, and if such materials are deemed appropriate for copyright, they must be reported to the Faculty Development and Research Committee. (Educational materials may include video and audio recordings, study guides, texts, syllabi, bibliographies, and texts. Instructional aids may include films, film strips, charts, transparencies and other visual aids, programmed instructional materials, and video or audio broadcasts.)

a) In such instances the Faculty Development and Research Committee shall have the first option to secure copyright in behalf of and in the name of the institution. Should the Committee decide it would not be appropriate to secure copyright, the faculty member then may proceed to secure a copyright in his/her own name.

b) Royalties received as a result of copyright ownership by the University will be dispersed 50 percent to the originator and the remainder to the support of the Faculty Research Program. SBHE policies 611.2 and 611.3 detail the circumstances under which royalty splits apply.
XVI. ACCIDENT REPORTING POLICY

An incident report form must be filed in connection with all incidents involving the general public. An “incident” means any event that results in damage to property (not owned by the State) or injury to someone other than a State employee (if a State employee is injured while on the job, workers compensation coverage applies). Each NDUS institution has, pursuant to SBHE policy 302.9 and OMB instructions, designated a risk management contact employee responsible for completing and filing incident report forms. The risk management contact at the University is the Human Resource Director. The incident reports generally must be filed within 48 hours.

The first thing to do following an incident is to assist anyone who may be injured and, when necessary, call for help. Next notify the risk management contact employee. Write down names and addresses or telephone numbers of injured persons and witnesses. Do not speculate about or state an opinion concerning why or how the accident happened, or who may be responsible. Do not prepare statements or sign documents before consulting legal counsel or institution/State risk management officials. It is best not to discuss the incident with anyone (except to furnish pertinent information concerning a traffic accident or possible crime to law enforcement officers) without first speaking to legal counsel or the institution’s risk management contact. If someone demands compensation or inquires about filing a claim, advise that person that a report of the incident will be filed with the State risk management fund and a claim form will be mailed to them. Advise the institution’s risk management contact to inform OMB that a request to file a claim has been made.

XVII. LAWSUITS INVOLVING EMPLOYEES (SOVEREIGN IMMUNITY)

The 1995 Legislature, reacting to a State Supreme Court decision abolishing sovereign immunity, enacted legislation authorizing tort claims against the State. There is now a greater risk of claims or lawsuits against the State concerning incidents involving State employees. However, State employees may not be held personally liable under State laws for actions or omissions that are within the scope of employment. Employees’ actions or omissions are within the scope of employment if they are performing duties lawfully assigned to them and they are not reckless or grossly negligent and do not engage in willful or wanton misconduct or malfeasance. An employee who is sued is defended by the State, unless it is determined that the employee acted outside the scope of employment.

The Legislature established a risk management fund, as a form of self-insurance, to pay claims made against the State, and to cover costs of investigating claims and defending lawsuits. The director of the Office of Management and Budget is the fund administrator, and OMB has hired a State risk manager. OMB contracts with a private company for claims investigation and adjusting.

XVIII. RESPONSIBLE CONDUCT IN RESEARCH

In Compliance with the Federal Policy on Research Misconduct 65 FR 76260

I. General Policy

Minot State University (MSU) is committed to the highest standard of ethical, scientific, and scholarly practice in research. Research is defined as all research, scholarship, and creative activity that support the intellectual endeavors of the University. Although incidents of misconduct in research may be rare, those that do occur threaten the entire research enterprise.
II. Scope

The following statement of policy and procedures is intended to carry out MSU’s responsibilities in compliance with 65 FR 76260, Federal Policy on Research Misconduct. This document applies to allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results) involving:

- A person who, at the time of the alleged research misconduct, was employed by, or was an agent of, or was affiliated by contract or agreement with MSU, and

- biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information, (2) applications or proposals for grant or contract supported biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of research, research training, or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for funds result in a grant, contract, cooperative agreement or other form of contracted support.

This policy applies to all full-time and part-time employees of the university, to post-baccalaureate graduate students who are engaged in funded or non-coursework-related research, to undergraduate students who are involved in funded research, and to any other person engaged in teaching, research, or scholarship at, and under the control of, or affiliated with, Minot State University.

This statement of policy and procedures does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the institution or the funding agency received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in specific agency policies.

III. Definitions

Research Misconduct includes fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results. Fabrication is making up data or results and recording or reporting them. Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record. Plagiarism is the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit. Research misconduct does not include honest error or differences of opinion.

Deciding Official (DO) is the institutional official who makes the final determinations on allegations of research misconduct and any institutional administrative actions. The DO will not be the same individual as the Research Integrity Officer (RIO) and should have no direct prior involvement in the institution’s inquiry, investigation, or allegation assessment. A DO’s appointment of an individual to assess allegations of research misconduct, or to serve on an inquiry board or investigation committee, is not considered to be direct prior involvement. MSU’s DO is the Vice President for Academic Affairs.

Research Integrity Officer (RIO) is the institutional official responsible (1) for assessing allegations of research misconduct to determine if they fall within the definition of research misconduct, as defined by 42 CRF 93, and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified;
(2) overseeing inquiries and investigations; and (3) the other responsibilities described in this policy. MSU’s RIO is the chair of the Institutional Review Board.

**Complainant** is the individual bringing an allegation of research misconduct forward.

**Respondent** is the individual who is the subject of an allegation of research misconduct.

### IV. General Policies and Principals

#### A. Responsibility to Report Misconduct

All institutional members will report observed, suspected, or apparent research misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

#### B. Cooperation with Research Misconduct Proceedings

Institutional members will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Institutional members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials.

#### C. Confidentiality

The RIO shall (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information. MSU shall provide confidentiality for witnesses when the circumstances show that the witnesses require protection for their security or safety.

#### D. Protecting complainants, witnesses, and committee members

Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

#### E. Protecting the Respondent

As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.
During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided per funding agency policy and the policies and procedures of the institution. Respondents may consult with legal counsel of respondent’s own choosing or a non-lawyer personal adviser (who is not a principal or witness in the case) of respondent’s own choosing, and the attorney or personal adviser is required or has the option to attend.

F. Interim Administrative Actions and Notifying Specific Funding Agency Officers of Special Circumstances
Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal or state funds and equipment, or the integrity of the agency supported research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and funding agency officer, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of federal funds and equipment, reassignment of personnel or of the responsibility for the handling of federal funds and equipment, additional review of research data and results or delaying publication. The RIO shall, at any time during a research misconduct proceeding, notify the funding agency officer immediately if he/she has reason to believe that any of the following conditions exist:

- Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- HHS resources or interests are threatened;
- Research activities should be suspended;
- There is a reasonable indication of possible violations of civil or criminal law;
- Federal action is required to protect the interests of those involved in the research misconduct proceeding;
- The research misconduct proceeding may be made public prematurely and funding agency action may be necessary to safeguard evidence and protect the rights of those involved; or
- The research community or public should be informed.

V. Conducting the Assessment and Inquiry

A. Assessment of Allegations
Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified, whether it is within the jurisdictional criteria of the Federal policy and whether the allegation falls within the Federal policy definition of research misconduct. An inquiry must be conducted if these criteria are adequately met.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential
evidence of research misconduct may be identified. The RIO shall, on or before the date, on
which the respondent is notified of the allegation, obtain custody of, inventory, and sequester
all research records and evidence needed to conduct the research misconduct proceeding, as
provided in paragraph C of this section.

B. Initiation and Purpose of the Inquiry
If the RIO determines that the criteria for an inquiry are adequately met, he or she will
immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial
review of the available evidence to determine whether there is probable cause to conduct
an investigation. An inquiry does not require a full review of all the evidence related to the
allegation.

C. Notice to Respondent; Sequestration of Research Records
At the time of or before beginning an inquiry, the RIO must make a good faith effort to
notify the respondent in writing, if the respondent is known. If the inquiry subsequently
identifies additional respondents, they must be notified in writing. On or before the date
on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO
must take all reasonable and practical steps to obtain custody of all the research records and
evidence needed to conduct the research misconduct proceeding, inventory the records and
evidence and sequester them in a secure manner, except that where the research records or evi-
dence encompass scientific instruments shared by a number of users, custody may be limited
to copies of the data or evidence on such instruments, so long as those copies are substan-
tially equivalent to the evidentiary value of the instruments. The RIO may consult with the
funding agency officer for advice and assistance in this regard.

D. Inquiry Committee
The Faculty Senate Faculty Rights committee and committee chair will serve as the Inquiry
Committee, in consultation with the RIO. The Inquiry Committee members must consist
of individuals who do not have unresolved personal, professional, or financial conflicts of in-
terest with those involved with the inquiry and must include individuals with the appropriate
scientific expertise to evaluate the evidence and issues related to the allegation, interview the
principals and key witnesses, and conduct the inquiry. The RIO, in consultation with appro-
priate institutional officials, may request the Faculty Senate President to appoint additional
members to the committee whose expertise is appropriate for evaluating the evidence and
issues related to the allegation. The Faculty Senate President will make such appointments
with the number and qualifications of these appointees determined by the Faculty Senate
President in consultation with the Vice President for Academic Affairs.

E. Charge to the Committee and First Meeting
The RIO will prepare a charge for the Inquiry Committee that:

• Sets forth the time for completion of the inquiry;
• Describes the allegations and any related issues identified during the allegation assessment;
• States that the purpose of the inquiry is to conduct an initial review of the evidence,
including the testimony of the respondent, complainant and key witnesses, to determine
whether an investigation is warranted, not to determine whether research misconduct
definitely occurred or who was responsible;
• States that an investigation is warranted if the committee determines: (1) there is a
reasonable basis for concluding that the allegation falls within the definition of research
misconduct and is within the jurisdictional criteria of Federal policy and, (2) the allegation does have substance, to a degree of probable cause, based on the committee’s review during the inquiry.

• Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and the Federal policy.

At the committee’s first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.

F. Inquiry Process
The inquiry committee will normally interview the complainant, the respondent and key witnesses as well as examining relevant research records and materials. Then the inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this policy and the Federal policy. The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses; it is based upon a conclusion of “probable cause,” meaning that it appears that more likely than not, research misconduct has occurred and a subsequent investigation is warranted. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the institution shall promptly consult with funding agency officer to determine the next steps that should be taken. See Section IX.

G. Time for Completion
The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60-day period. The respondent will be notified of the extension if one is given.

VI. The Inquiry Report

A. Elements of the Inquiry Report
A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the funding agency support, including, for example, grant numbers, grant applications, contracts and publications listing such support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant. The report shall also include the names and title of the committee members and experts who conducted the inquiry.

The SBHE legal counsel should review the report for legal sufficiency. Modifications should be made by the RIO in consultation with the inquiry committee.
B. Notification to the Respondent and Opportunity to Comment

Prior to finalizing the inquiry report, the RIO shall provide to the respondent and the complainant a copy of the draft inquiry report and include a copy of or refer to the funding agency policy and MSU’s policies and procedures on research misconduct. The respondent and complainant have 10 days from receipt of the draft inquiry report and policies in which to submit written comments to the RIO on the content of the report.

Any comments that are submitted by the respondent or complainant will be reviewed by the RIO and the inquiry committee. The inquiry committee may revise the draft report to incorporate comments made by the respondent or complainant as appropriate. The inquiry committee will then prepare the report in final form. The committee will deliver the final report to the RIO.

C. Institutional Decision and Notification

1. Decision by Deciding Official

The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination. The decision of the DO is final.

2. Notification to Funding Agency

Within 30 calendar days of the DO’s decision that an investigation is warranted, the RIO will provide the funding agency with the DO’s written decision and a copy of the inquiry report. The RIO will also notify those institutional officials who need to know of the DO’s decision. The RIO must provide the following information to funding agency upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation.

3. Documentation of Decision Not to Investigate

If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by the funding agency of the reasons why an investigation was not conducted. These documents must be provided to authorized funding agency personnel upon request.

VII. Conducting the Investigation

A. Initiation and Purpose

The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record investigating the allegations in detail and examining the evidence in depth, leading to recommended findings, based upon a preponderance of the evidence, on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. Under the Federal policy, the findings of the investigation must be set forth in an investigation report.
B. Notifying Funding Agencies and Respondent; Sequestration of Research Records
On or before the date on which the investigation begins, the RIO must: (1) notify the funding agency officer of the decision to begin the investigation and provide the funding agency a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct preceding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the institution’s decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

C. Appointment of the Investigation Committee
The RIO, in consultation with other institutional officials as appropriate, will appoint an Investigation Committee and the committee chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and must include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Individuals appointed to the investigation committee may also have served on the inquiry committee.

D. Charge to the Committee and the First Meeting
1. Charge to the Committee
The RIO will define the subject matter of the investigation in a written charge to the committee that:

Describes the allegations and related issues identified during the inquiry;

• Identifies the respondent;
• Informs the committee that it must conduct the investigation as prescribed in paragraph E. of this section;
• Defines research misconduct;
• Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
• Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the research misconduct is a significant departure from accepted practices of the relevant research com-
munity; and (3) the respondent committed the research misconduct intentionally, knowingly, or recklessly; and

- Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and Federal policy.

2. First Meeting
   The RIO will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this statement of policy and procedures and Federal policy. The RIO will be present or available throughout the investigation to advise the committee as needed.

E. Investigation Process
   The investigation committee and the RIO must:
   - Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;
   - Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
   - Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
   - Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

F. Time for Completion
   The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment, finalizing the report, and sending the final report to funding agency, with the statement and description required in Section VIII.E. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit to the funding agency a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with funding agency, if the funding agency grants the request for an extension and directs the filing of such reports.

VIII. The Investigation Report
   A. Elements of the Investigation Report
      The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:
      - Describes the nature of the allegation of research misconduct, including identification of the respondent;
• Describes and documents the funding agency support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing funding agency support;

• Describes the specific allegations of research misconduct considered in the investigation;

• Includes the institutional policies and procedures under which the investigation was conducted, unless those policies and procedures were provided to the funding agency previously;

• Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and

• Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion; (3) identify the specific funding agency support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with other agencies.

B. Comments on the Draft Report and Access to Evidence

1. Respondent
   The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 days from the date he/she received the draft report to submit comments to the RIO. The respondent’s comments must be included and considered in the final report.

2. Confidentiality
   In distributing the draft report, or portions thereof, to the respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.

C. Decision by Deciding Official
   The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent’s comments are included and considered, and transmit the final investigation report to the DO, who will determine in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.
When a final decision on the case has been reached, the RIO will normally notify both the respondent and the complainant in writing. After informing the funding agency, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

The decision of the DO is final.

D. Notice to the Funding Agency of Institutional Findings and Actions

Unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation submit the following to the funding agency: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

E. Maintaining Records for Review by the Funding Agency

The RIO must maintain and provide to the funding agency upon request “records of research misconduct proceedings” as that term is defined by Federal policy. Unless custody has been transferred to the funding agency or the funding agency has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for 7 years after completion of the proceeding or the completion of any funding agency proceeding involving the research misconduct allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by the funding agency to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation.

IX. Completion of Cases; Reporting Premature Closures to Funding Agency

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO must notify the funding agency in advance if there are plans to close a case at the inquiry or investigation stage on the basis that respondent has admitted to the misconduct as charged, a settlement with the respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct or that there is insufficient evidence to proceed at the investigation stage, which must be reported to the funding agency, as prescribed in this policy and the Federal policy.

X. Institutional Administrative Actions [Optional]

If the DO determines that research misconduct is substantiated by the findings, he or she will decide on the appropriate internal administrative actions to be taken.

XI. Other Considerations

A. Termination or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent’s institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution's responsibilities under the Federal policy.
If the respondent, without admitting to the misconduct, elects to resign his or her position after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent’s failure to cooperate and its effect on the evidence.

B. Restoration of the Respondent’s Reputation
Following a final finding of either no research misconduct or insufficient evidence to support a finding of research misconduct, including funding agency concurrence where required by the federal agency, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent’s reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and removing all reference to the research misconduct allegation contained in the materials in the respondent’s personnel file. Any institutional actions to restore the respondent’s reputation should first be approved by the DO.

C. Protection of the Complainant, Witnesses and Committee Members
During the research misconduct proceeding and upon its completion, regardless of whether the institution or the funding agency determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

D. Allegations Not Made in Good Faith
If relevant, the DO will determine whether the complainant’s allegations of research misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith he/she will determine whether any administrative action should be taken against the person who failed to act in good faith.

MSU’s Research Misconduct policy and procedures align specifically with the following Federal funding agency requirements:
• Department of Health and Human Services 42 CFR 93, PHS Policies on Research Misconduct
• National Science Foundation, 45 CFR, 689, Research Misconduct
• Department of Energy, 10 CFR 600 and 733; 48 CFR 935, 952, and 970 Policy on Research Misconduct
• Department of Education, FR Doc 05-21874, Research Misconduct