

Procedures for Dealing with Issues of Professional Misconduct

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I. Introduction

The School of Medicine is an institution dedicated to truth in pursuit of knowledge through biomedical research, to the transmission of knowledge through teaching, and to the application of medical knowledge to patient care. A spirit of mutual respect and a broad trust that all faculty members share this dedication to the truth are essential to the function of the School. On occasion, however, it is necessary for the School to respond to evidence or complaints of unsatisfactory performance of professional duties or unacceptable behavior.

The procedures outlined here were developed to provide a fair and orderly means of handling allegations of professional misconduct raised against members of the faculty of the School of Medicine. It is not intended that the proceedings be adversarial. Rather, all phases of the procedure should be conducted in the spirit of peer review. The School believes that duly constituted boards and committees of the faculty should be free to meet directly with a member of the academic community on the business of the School, without counsel present. No accused person and no accuser may appear before an internal review panel with legal counsel.

Definitions and Standards

1. Professional misconduct is intentional deception or dishonesty in the professional conduct of academic duties such as, but not limited to, teaching, provision of medical care, or research activities (other than research misconduct); unsatisfactory performance of professional responsibilities; behavior generally unacceptable to the academic community; or failure to comply with published institutional policies or procedures, or state or federal laws or regulations. Complaints against faculty members for alleged violations of The Johns Hopkins University School of Medicine “Guidelines for Conduct in Teacher/Learner Relationships” (available at <http://www.hopkinsmedicine.org/som/students/policies/relationships.html>) will be handled in accordance with these “Procedures for Dealing with Issues of Professional Misconduct”, except for those complaints that are referred to the Office of Equal

Opportunity and Affirmative Action Programs.

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

The Division of Research Integrity within the Office of Policy Coordination (OPC), part of the Office of the Dean, is charged with overseeing investigations into any allegations of misconduct and staffing all committees involved in the process. The Division of Research Integrity is available to answer questions concerning the procedures described below from all involved in the process.

II. Reporting Allegations of Professional Misconduct

1. Faculty, students and staff have an obligation to inform their supervisors if they suspect professional misconduct on the part of any member of the faculty of the School. The suspicion should initially be discussed with the relevant department director in confidence; or if an allegation concerns a department director, it may be reported directly to the Dean's Office.
2. The initial responsibility to review complaints or allegations and to attempt to resolve the matter rests with the relevant department director. The method used for resolution may be an informal process with minimal record-keeping requirements.

If the department director is unable to resolve the complaint to the satisfaction of either the accused person or the accuser, or the department director believes further resolution is required, the complaint may be formally submitted in writing to the Dean for review.

3. If the allegation arises in another division of the University, the relevant Deans and/or Deans' designees will meet to collaboratively decide how to proceed.

III. Inquiry

1. Upon receipt of a written allegation of possible professional misconduct, the Dean and/or the Dean's designee will attempt to resolve the matter in a timely manner by conducting a preliminary inquiry. After an appropriate inquiry, resolution by the Dean can take several forms:
 - a) The Dean can find there is no basis for the allegation and close the matter.

b) The Dean can find the allegation to be upheld. If the accused person does not contest the charge, and the Dean considers the misconduct to represent a minor infraction, a letter of reprimand may be issued. The matter will then be closed when all stipulations (if any) of the reprimand are met.

c) The Dean can find the allegation to be upheld and judge it to be a serious infraction. If the accused person does not contest the findings, the case will be referred to the Standing Committee on Discipline for adjudication.

d) The Dean can find the matter cannot be resolved satisfactorily through a preliminary inquiry, or the accused person contests the finding of the Dean's review. An ad hoc committee will be appointed by the Dean to review the issue(s) through the proceedings outlined below.

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

IV. Investigation

1. At the Dean's discretion, the Dean may initiate a formal investigation into charges of professional misconduct and notify the Provost of the investigation.
2. If the accused person has joint or secondary appointment(s) in other School of Medicine departments, those department directors will be notified.
3. The Dean will appoint an ad hoc committee consisting of three or more faculty members from The Johns Hopkins University to conduct a careful review of the allegations. The accused person and individuals who have information relevant to the charge will be given an opportunity to present information to the committee, either in writing or through an interview process. The Investigation Committee will assemble evidence of the alleged professional misconduct.
4. Data collection by the faculty panel is to be as objective, independent, unbiased, and complete as possible.
5. The investigation should conclude whether professional misconduct occurred, as determined by the preponderance of evidence.
6. The Investigation Committee will follow the following procedures in the conduct of its formal investigation:

- a) At the initiation of the investigation, the Dean or the Dean's designee must inform the person accused of misconduct in writing of all the charges against him or her, the source of the accusation, and the fact that an investigation is taking place. The accused person must be informed promptly and in writing of any amendment to the original charges.
- b) The accused person will be notified of the names of the members of the Investigation Committee appointed by the Dean to conduct the investigation. The accused person may request that the Dean replace a member of the Investigation Committee on a reasonable showing of potential bias or conflict of interest.
- c) The Investigation Committee will schedule a meeting (or meetings) at which the accused person will be invited to appear and provide testimony. Every effort will be made to schedule such meetings at a mutually convenient time. The initial meeting of the Investigation Committee will not take place less than seven days after the accused person receives the Committee's request to appear, unless the accused person waives the seven day requirement. The accused person may request a rescheduling of the meeting(s) with the Investigation Committee for good cause. The accused person's failure or refusal to meet with the Investigation Committee will not deter the progress of the investigation. If the accused person is no longer a member of the Johns Hopkins academic community, the requirements of written notice and an opportunity to answer to the charge of misconduct will be observed as far as is practical, but the failure of the accused to respond or to make himself or herself available to those with investigatory responsibilities will not deter the inquiry and investigation.
- d) All relevant materials and documents for the investigation will be secured in the office of the Dean or another designated secure location at the earliest opportunity.
- e) At the beginning of the investigation, the accused person will be afforded the opportunity to consult with an uninvolved senior faculty member, who will serve as "advisor" to the accused person throughout the proceedings. The role of the advisor will be to offer advice and guidance regarding the procedural aspects of the process. This individual will be chosen by the accused person, subject to approval by the Dean, or appointed by the Dean subject to approval by the accused person, and may, upon request by the accused person, accompany her or him to meetings with inquiry, investigating, or adjudicating committees. No current member of the SCD may serve as an advisor. If the accused person does not wish to consult with an advisor, he or she must so notify the Dean in writing.
- f) All testimony to the Investigation Committee by the accused or other persons will be transcribed by a qualified court reporter. Copies of the recordings or the court reporter's transcription will be furnished to the accused person. The accused person may submit corrections in spelling on errata sheets provided with the transcripts but

may not otherwise edit the transcript.

- g) The accused person will be invited to present a written statement at the start and close of the Investigation Committee's investigation. He or she may request that the Committee interview certain individuals with relevant information concerning the matter under investigation and may suggest to the Committee any avenues of inquiry that he or she believes are likely to produce relevant evidence. The accused person may request an opportunity to question his accuser at a Committee meeting before the Committee completes its final report. If, in the Dean's judgment, this would impose undue hardship on the individuals involved, the Dean may decline to honor the request for a face-to-face meeting.
 - h) The Investigation Committee will prepare a written report of its findings and the significance assigned by the Committee to such findings, and will not include recommendations as to disciplinary action. The report will be given to the Dean and a copy given to the accused person.
 - i) At any stage of the investigation, the Dean, after consultation with the Investigation Committee, may take steps to notify other parties who, in the Dean's judgment, should be informed of the on-going investigation.
 - j) The likelihood that a criminal act may have occurred must be reported immediately to the Office of the General Counsel for the University, which will assume responsibility for prompt notification of the appropriate federal, state, and local authorities.
7. If the Investigation Committee's investigation concludes that no professional misconduct has occurred, and if the Dean concurs with these findings, the matter will be closed. Appropriate action will be taken to restore the reputation of those under investigation and there will be continued protection of the accuser(s) from retaliation. A copy of the Investigation Committee's findings of no misconduct will be sent by the Dean to the accused person, and to the department director. The Dean will retain the records of the investigation, including the findings of the Investigation Committee, in a confidential, sequestered file.
8. If, with due regard to whistleblower protections, the Investigation Committee finds the allegations of professional misconduct have been maliciously motivated, or based on fraudulent evidence, the Dean may take appropriate disciplinary against those responsible. If, in the judgment of the Investigation Committee, the allegations, however incorrect or unsupported, were made in good faith, no retaliatory or disciplinary action will be taken against the accuser(s) and appropriate measures will be taken to protect the accuser(s) from retaliation.

9. If the Investigation Committee concludes that professional misconduct has occurred, it will report its findings as follows: The Investigation Committee's written report will include its findings and the significance assigned by the Investigation Committee to such findings, and will not include recommendations as to disciplinary action. The report will be sent to the accused person, his or her department director chair or division chief, the Dean and the Standing Committee on Discipline (SCD) for further action as provided in this procedure and in accordance with SCD's procedures.

V. Adjudication by the Standing Committee on Discipline

1. The role of the SCD is to review the inquiry or investigation report to determine whether disciplinary action is indicated. It will consider whether there are any extenuating or aggravating circumstances, and consider any rebuttals submitted by the faculty member alleged to have engaged in professional misconduct.
2. If the accused person's department or functional unit director is a member of the SCD, he or she is recused from deliberations, except for the department director's testimony before the SCD described in Point 4 of this section. Other SCD members with conflicts of interest, either real or perceived, will disclose those conflicts to the Chair of the SCD. The Chair will make a determination concerning recusal.
3. The accused person will be given an opportunity to appear before, and submit written comments to the SCD. The accused person may state his or her views on why the findings of the Dean and the Inquiry or Investigation Committee should be accepted or rejected in whole or in part. Comments on the Inquiry or Investigation Committee's report by the accused should be received by the SCD within ten days of receipt of the report.
4. Before making a final decision regarding sanctions and remedial actions, if any, the SCD will meet with the accused individual's department director (or, at the discretion of the department director, both the department and division directors) so the director(s) can provide the SCD with information bearing on the impact of the proposed disciplinary action and/or remediation measures on the department. If the department director disagrees with the SCD recommendation, the SCD will note the difference of opinion, but its final recommendation will be made independently. The SCD will document the reasons for any differences of opinion between the department director(s) and the Committee and it will include this documentation in its report. If there are differences of opinion, the department director will submit in writing his or her discussion of the differences to the Advisory Board of the Medical Faculty (ABMF) via the Agenda Committee for additional investigation or modification of its report.
5. The SCD may accept or reject the Investigation Committee's report, in whole or in part. At the conclusion of its review, it will recommend to the ABMF those sanctions or remedial actions, if any, which the SCD may consider appropriate to the circumstances

concerning the professional misconduct. The SCD's recommendations to the ABMF may include, but are not limited to, the following sanctions:

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

VI. Advisory Board of the Medical Faculty

1. The SCD will forward its report and recommendations to the full ABMF. The ABMF will, in executive session, consider the case and decide what, if any, disciplinary action to take. The accused person may ask other persons (including faculty, staff, or department chairs) to be allowed to appear before the ABMF, or to submit a written statement or materials relevant to the disposition of the case. The ABMF reserves the right to decline these requests. The ABMF will report its decision to the Dean and to the accused person. All records of the proceedings will be maintained in confidence by the Dean.
2. Interested parties (i.e., the accused individual or others) who wish to address the ABMF must direct their requests in writing, at least seven days in advance of the Agenda Committee meeting to the Dean. The Dean will forward the request to the Agenda Committee as an addendum to the SCD materials. The Agenda Committee will consider the case and all relevant materials and decide whether they will permit or deny a personal presentation by the interest party at the ABMF meeting. Any material to be presented to the ABMF by, or on behalf of, the accused individual, whether in person or not, will be provided to the Chair of the SCD and the Dean at least seven days in advance of the ABMF meeting and earlier, if possible. Details of presentation procedures to the ABMF are available from the Dean's Office upon request.
3. The ABMF will report its decision to the Dean and to the accused person. All records of the proceedings will be maintained in confidence by the Dean.

VII. Appeals

1. The accused person may take an appeal of the ABMF's decision to the Dean within 14 days of notification of the decision. In the event that the Dean upholds the ABMF's decision, the accused person may appeal the decision to the Provost of the University

within 14 days. The appeal review of the Dean and Provost will be limited to the adequacy of the procedures followed and the appropriateness of the disciplinary action taken.

VIII. Office of the General Counsel

1. The responsibilities of the Office of the General Counsel include:
 - a) ensuring compliance with all applicable laws and regulations;
 - b) monitoring the progress of the resolution of each allegation of research or professional misconduct to ensure adherence to the established School and University procedures; and
 - c) notification to appropriate authorities of suspected criminal acts.
2. The Office of the General Counsel will not act as the prosecutor or defender of the accused person, but will act as an impartial legal advisor to the Administration of the School and University.
3. The Office of the General Counsel is available to render advice to department or division directors, the Dean or the Dean's designee, the SCD, Investigation Committees, and the ABMF at any step in the proceedings. Individuals serving in any of these capacities are encouraged to seek legal guidance regarding any procedural question, particularly in connection with the preparation of written reports of actions taken, or before any action is taken with respect to any person believed to have made an accusation of misconduct in bad faith. Any contact or inquiry to the University or School of Medicine from a lawyer outside the University, including contacts and inquiries emanating from legal representatives of any federal, state, or local agency, must be referred to the Office of the General Counsel.

IX. Exclusivity of Procedure

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