

**Faculty Senate Meeting**  
Wednesday, March 25, 2009  
3:30-5:30 p.m. – Adelbert Hall, Toepfer Room

AGENDA

- |      |   |  |
|------|---|--|
| 3:30 | Approval of Minutes from February 26, 2009<br>Faculty Senate meeting, <i>attachment</i>           | G. Starkman                                      |
|      | President's announcements   | B. Snyder  |
|      | Provost's announcements   | B. Baeslack                                      |
| 3:35 | Chair's announcements   | G. Starkman                                      |
|      | Report from the Executive Committee   | C. Musil   |
| 3:40 | Report from Secretary of the Corporation  | J. Arden Ornt                                    |
| 3:45 | Announcement from Alumni Committee on<br>Life-long Learning                                       | K. Kutina<br>W. Shapiro<br>H. McCormick          |
|      | Announcement about Doc Oc Memorial Dedication   | J. Zabinski                                      |
| 3:55 | Motion by Faculty Senate Minority Affairs Committee<br><i>attachment</i>                          | S. Loue  |
| 4:10 | Nursing School request for exemption from<br>majority tenure/tenure track rule, <i>attachment</i> | P. Underwood                                     |
| 4:15 | Changes for Faculty Handbook 2009, <i>attachment</i>  | C. Cano  |
| 4:25 | Discussion of Updated Sexual Harassment Policy<br><i>attachment</i>                               | P. Higgins<br>S. Nickel-Schindewolf<br>C. Trembl |
| 4:40 | Presentation on 08-09 Faculty Diversity Initiatives   | M. Mobley<br>A. Shaffer                          |
| 5:05 | Presentation on University Branding Initiatives   | G. Bieler  |

Faculty Senate  
Minutes of the Meeting of March 25, 2009  
Toepfer Room, Adelbert Hall

**Members Present**

Bud Baeslack  
Cynthia Beall  
Robert Bonomo  
Christine Cano  
Joseph Carter  
Susan Case  
Martha Cathcart  
William Deal  
Mark De Guire  
Steven Garverick  
James Harris  
Susan Hinze  
Elizabeth Kaufman  
Cheryl Killion  
Kenneth Ledford  
Alan Levine  
Jacqueline Lipton  
Sana Loue  
Leonard Lynn  
Charles Malemud

David Matthiesen  
Frank Merat  
Shirley Moore  
Diana Morris  
Carol Musil  
Ray Muzic  
Regina Nixon  
Cassandra Robertson  
Alan Rocke  
Jonathan Sadowsky  
Benjamin Schechter  
Scott Shane  
Barbara Snyder  
Glenn Starkman  
Elizabeth Tracy  
Kathleen Wells  
Rhonda Williams  
Terry Wolpaw  
Elizabeth Woyczynski  
Jeff Zabinski

**Members Absent**

Kathryn Adams  
Jeffrey Alexander  
Keith Armitage  
Nabil Bissada  
Daniela Calvetti  
Sami Chogele  
Dave Diles  
Robin Dubin  
Molly Fuller  
Robert Greene  
Peter Haas  
Christine Hudak

Wilbur Leatherberry  
Kenneth Loparo  
Kalle Lyytinen  
Roland Moskowitz  
Kathryn Mercer  
Ronald Occhionero  
Joseph Prah  
Roy Ritzmann  
Faisal Quereshy  
Susan Tullai-McGuinness  
Michelle Walsh

**Others Present**

Dan Anker  
Jeanine Arden-Ornt  
Chris Ash  
Paula Baughn  
Glenn Bieler  
Joann Eustis  
Don Feke  
Cleve Gilmore  
Lara Kalafatis  
Ken Kutina

Glenn Nicholls  
Ginger Saha  
Marilyn Mobley  
Amanda Shaffer  
Wendy Shapiro  
Chris Sheridan  
Lynn Singer  
Catherine Wells  
Jeffrey Wolcowitz

### **Call to Order**

Professor Glenn Starkman, chair of the faculty senate, called the meeting to order at 3:30 p.m.

### **Approval of minutes**

Noting the few corrections needed in the list of members attending, upon motion, duly seconded, the minutes of the Faculty Senate meeting of February 26 were approved as submitted.

### **President's announcements**

The president had no announcements.

### **Provost's announcements**

Provost Bud Baeslack noted progress on strategic plan implementation. He spoke of the tentative range for salary adjustments for 09-10; the decision will be finalized May 15 after projected enrollments for 09-10 are more definitive. Consistency is important, but some flexibility is allowed if a school with fiscal constraints chooses to offer less. Provost Baeslack talked about whether or not SAGES constituted a core curriculum. In effect the only core classes have been English 150 and physical education classes; although all 4 colleges adopted SAGES as a common curriculum, it is not clear that SAGES was implemented as the university's core. The new faculty senate *ad hoc* committee will work with the provost's office to review the pedagogical strengths and weaknesses of the program and to offer its recommendations for continued support or variations on the current program.

### **Chair's announcements**

Professor Glenn Starkman announced that the *ad hoc* committee on grievance process reform will issue a final report this summer, and their charge will be extended until any necessary changes to the Faculty Handbook are finalized. The *ad hoc* SAGES committee has been empanelled, and will meet shortly.

### **Report from the Executive Committee**

Prof. Corbin Covault was approved as chair of the *ad hoc* SAGES committee. The proposal of the Faculty Senate Minority Affairs Committee was discussed. An exemption from majority tenure requirement for the School of Nursing was approved for final review by the Faculty Senate. The new Sexual Harassment Policy was discussed. Accumulated proposed changes to the Faculty Handbook were approved for final consideration by the Faculty Senate.

### **Report from Secretary of the Corporation**

Jeanine Arden-Ornt, vice president, general counsel and secretary of the corporation, summarized the recent meeting of the Board of Trustees. New endowments and faculty appointments were approved, as were the mission and vision statements for the university. A philanthropy report indicated that cash donations and pledges were up since the last report, but they are not at the same levels as last year. The 2010 operating budget was discussed, along with commitments to improve salaries, SAT scores of incoming students, and consideration of economic risks. The approved increase in tuition is just under 3%. The university may need to consider lower spending levels.

### **Announcement from Alumni Committee on Life-long Learning**

Ken Kutina, vice-president emeritus for institutional planning, and current chair of the alumni committee on life-long learning, talked about the committee's aim to enhance life-long learning for Case alumni, numbering 90,000 with all over the world. Alumni are our largest fund-raisers; and they help recruit prospective students, and provide career networking services to graduating students. Mediavision makes about 60 classes, mostly undergraduate available, through audio and video

recordings posted online. Alumni would have to access the classes – as students do – with their Case network ID's. It's up to each faculty member to allow alumni access to his or her class, and the committee would like to encourage faculty to share their classes with alumni. Prof. Glenn Starkman offered to have the Executive Committee further discuss the faculty approval process.

### **Announcement about Doc Oc Memorial Dedication**

Jeff Zabinski, undergraduate student representative to the faculty senate, announced the unveiling of a memorial sculpture, funded by the donations from students and alumni, to honor the deceased Prof. Ignacio Ocasio, known as Doc Oc, on Saturday, April 25 at 9:30am on the on the steps of Adelbert Hall.

### **Motion by Faculty Senate Minority Affairs Committee**

Prof. Sana Loue, chair of the faculty senate minority affairs committee, shared a proposal to have "efforts to advance diversity" added as an optional parameter for deciding cases of promotion and tenure. She cited examples at other schools including Harvard Medical and Dental Medicine, University of California, and University of Michigan. The Executive Committee evaluated the proposal and discussed concerns including: advancing social values as criteria for promotion and tenure, infringement on academic freedom, and the problem of having diversity as a goal of research in some disciplines. Discussion ensued. Researchers that advance causes of diversity don't get the same professional recognition. In spite of support for diversity, Case hasn't changed much; this could be the kind of change that would allow the university to be more inclusive. Diversity is an important value, but it shouldn't be considered among the standards and qualifications for promotion and tenure. Perhaps diversity should be one of the possible metrics within each of the three parameters: teaching, research and service. The few minority faculty members we have are called upon to serve the cause of diversity so often that their commitments to teaching and research may suffer; they are not given enough credit for their service contributions. Why should the commitment to diversity be included when other core values, such as social advocacy or integrity, are excluded? Interdisciplinary research is another area that has a difficult time gaining the professional recognition needed for promotion and tenure. How can the university enhance its commitment to diversity and other core values? The Executive Committee will consider the feedback offered by the Senate and determine the best means to advance the discussion going forward.

### **Nursing School request for exemption from majority tenure/tenure track rule**

Prof. Patricia Underwood, executive associate dean, explained that Nursing School is seeking a permanent exemption from the requirement in the Faculty Handbook that each school have at least 50% faculty be tenure or tenure track. The Medical and Dental Medicine Schools have already been granted similar permanent exemptions. To meet state regulatory requirements and outside accreditation requirements, it's critical to have to a certain number of clinical instructors on staff, and clinical instructors are generally not qualified for tenure track appointments. The Nursing School remains committed to tenure and tenure track appointments. Upon motion, duly seconded, the Faculty Senate approved this exemption for the School of Nursing.

### **Changes for Faculty Handbook 2009**

Prof. Christine Cano, chair of the by-laws committee, introduced the accumulated changes to the Faculty Handbook since it was last published in 2006. Some changes were clarifications in language, some were policy changes (such as Conflict of Interest), and a few were substantive changes (such as the changes regarding the UUF and the newly proposed faculty senate committee on undergraduate education). A proposed change (Chapter 3, Part One, Sec. IV. D.4) that allowed a representative of the Office of

General Counsel to serve as an advisor was withdrawn and the original language was restored. Upon motion, duly seconded, all other changes to the Faculty Handbook were approved.

**Other Items**

There was no time to include other agenda items: sexual harassment policy, presentation on faculty diversity initiatives, and the presentation on university branding initiatives. In the remaining 10 minutes, Marilyn Sanders Mobley, vice-president for inclusion, diversity and equal opportunity talked about her office's mission and organization. Other agenda items will be addressed at the April meeting of the Faculty Senate.

**Adjournment**

Upon motion, duly seconded, the meeting was adjourned at 5:35 p.m.

APPROVED  
by the  
FACULTY SENATE



ELIZABETH H. WOYCZYNSKI  
SECRETARY OF UNIVERSITY FACULTY



CASE WESTERN RESERVE  
UNIVERSITY EST. 1826

March 20, 2009

The Faculty Senate  
c/o Elizabeth H. Woyczynski, Secretary of the Faculty Senate  
Case Western Reserve University  
Adelbert Hall  
10900 Euclid Avenue  
Cleveland, OHIO 44106

Dear Ms. Woyczynski:

As you are aware due to the University's Faculty Handbook, the majority of the voting faculty members within each school should be tenured or tenure track faculty members. Currently, we have 91 faculty members in the School of Nursing who are defined as regular faculty members. Of these, 31 (34%) are tenured or tenure track. Regulations by accrediting bodies and governmental agencies make it difficult to increase this percentage for two reasons:

Pre-licensure students need to be supervised at a ratio of 1:8 in the clinical area

MSN students in clinical courses need to be taught by faculty who hold certification in practice specialties. Certification requires that faculty maintain a clinical practice.

Of the regular faculty, 40% (n=36) are non-tenure track at the rank of Instructor. They are heavily engaged in clinical teaching, practice, and service. They do not hold doctoral degrees and are not eligible for tenure track appointments. They are critical to the education of our almost 600 undergraduate and master's level students. A number of these faculty also hold appointments in collaborating clinical agencies. The remaining 25% (n=24) of faculty are non-tenure track and hold the ranks of Assistant and Associate Professor. Many of them are also engaged in providing clinical education, agency collaboration, and administration. While they are actively engaged in scholarly writing, research and program grant development, they are not able to devote the percent of time to active research that is an expectation of our tenure track faculty. We, therefore, respectfully request a permanent exemption from this policy as stipulated in the university by-laws. Thank you for your attention to this matter.

Sincerely,

*May L. Wykle*

May L. Wykle, PhD, RN, FAAN  
Dean and Cellar Professor of Nursing

MLW:scs

# Faculty Handbook

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A handbook for the members of the University Faculty, as defined in the “Constitution of the University Faculty”

Summer 2006

**Case Western Reserve University**



**Office of the President  
August 2006**

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## Introduction

The *Case Western Reserve University Faculty Handbook* has been prepared for the members of the University Faculty, as defined in the "Constitution of the University Faculty" (Chapter 2, Article I, Membership of the University Faculty). The policies and procedures contained herein remain in effect until such time as they are amended (a) for the "Constitution of the University Faculty" (Chapter 2), through the process set out in Article IX of Chapter 2; (b) for Chapter 3, following review by the Faculty Senate, recommendation by the president, and approval by the Board of Trustees; and (c) for Chapters 4 and 5, through regular university procedures for amending or issuing general policies or procedures of the university. Once approved, new provisions in or amendments to the Faculty Handbook will be updated in the most recent electronic version of the Faculty Handbook on the university's website. New provisions in or amendments to the Faculty Handbook for Chapters 2 and 3 will be effective for all faculty as of the approval date by the Board of Trustees, and for Chapters 4 and 5 as of the approval date or effective date of the general university policy or procedure.

Additional information is included in this handbook on general university policies and procedures that apply to all members of the university community--administrators, staff, students and faculty--(Chapter 4), and on academic and other services and facilities (Chapter 5) of interest to the university community.

Throughout this volume, sections indicated by an asterisk (\*) are university policies that were approved and adopted by the Board of Trustees on the date shown. Where relevant, other policies and procedures have also been identified by source and date of adoption.

~~All material set forth or referred to in this handbook is current as of June, 2004.~~ Changes are made from time to time through regular university procedures as specified above.

As part of the adoption of the "Policies and Procedures for the Members of the Faculty of Case Western Reserve University" in 1973, the Board of Trustees in its official document stated, "Each constituent faculty that includes faculty members who are not regular full-time members should establish appropriate procedures and policies for such faculty." Prior to the restructuring of the University

Faculty that occurred in 2003, faculty members who were not regular full-time faculty included, among others, individuals holding adjunct appointments, clinical appointments, visiting appointments, and lecturer appointments. As part of the changes in 2003, a new category of University Faculty was created and called "special faculty," which covers those types of appointments. Special faculty are now covered by the provisions of the *Faculty Handbook*, unless specifically excluded. If they are excluded from a particular provision, the by-laws of the constituent faculty in which their appointment resides may address that subject.

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**Chapter 1**  
**A brief history of Case Western Reserve University**

On July 1, 1967, Case Western Reserve University was created by action of the Trustees of Case Institute of Technology and Western Reserve University. The new university inherits the traditions of two independent institutions, connected over the years by personal and corporate relationships and by location.

Both institutions had deep roots in the traditions of the Western Reserve of Connecticut. Leonard Case, Sr., who came to Cleveland in 1816, was an agent of the Connecticut Land Company from 1827 to 1855, and an authority on its land titles. Western Reserve College was founded in 1826 in Hudson by a group of men who had pioneered in this new country. They were schooled in the New England college tradition and determined to continue that tradition in Ohio so that a new generation of professional men could be educated in the Western Reserve. Although the early orientation of the college was towards classical education and training for the ministry, there was a strong scientific interest almost from the beginning. In 1836 the observatory, third in the United States and the first west of the Appalachians, was built, and Elias Loomis was commissioned to spend a year in Europe, studying and purchasing scientific equipment, before he took up residence at the college as Professor of Mathematics and Natural Philosophy. In 1843, a group of seven physicians, intent on starting a medical school in Cleveland, with Leonard Case, Sr., as Chairman of its Board of Agency, affiliated the school with Western Reserve College as its medical department. After that time, several faculty members taught at both Hudson and Cleveland, especially in the natural sciences. In 1826, the founders had refused to consider Cleveland as a location because it was a lake port, full of temptations for the innocent student. Fifty years later, Cleveland was a flourishing city, determined to have a university, and Western Reserve College -- trustees, faculty, and students -- found Cleveland considerably more acceptable.

The group of Clevelanders who were negotiating with the trustees of the College were encouraged by a sensational news story in January of 1880. Leonard Case, Jr., scholarly, Yale-educated, heir to Cleveland's first great fortune, had left a substantial portion of it to found a scientific school. Representatives of the new Case School of Applied Science and of Western Reserve College met to discuss the possibility of sharing a tract of land to be purchased for their use by public subscription. The trustees of Case decided that "... very many advantages would accrue to the students of each of these institutions, with a savings of expense both to

the institutions and to them, by their location in proximity with each other." The issue was settled for Western Reserve by the offer of Amasa Stone, a Cleveland railroad builder and banker, in December of 1880, to re-found the College in Cleveland provided that it be located in close proximity to Case School.

The parcel of land purchased by the contributions of fifty-six Clevelanders in 1881 was the nucleus of the present campus of Case Western Reserve and indeed of the whole University Circle. Amasa Stone had asked also that the name of the College be changed to Adelbert in memory of his only son. The first buildings were not complete in September, but Adelbert College began to hold classes in Cleveland in 1882. The first Case building, completed in 1885, was gutted by fire in October of 1886. Fortunately the equipment for the experiment which Albert A. Michelson of Case and Edward W. Morley of Western Reserve were conducting to test the theory of ether drift was rescued, and the project, basic to Einstein's work in relativity, was completed in July of 1887 in Adelbert Hall. Case School was fortunate in its early faculty; it became a center for scientific and industrial research as well as a technical institute training engineers. The change of name to Case Institute of Technology in 1947 signaled the beginning of a period of great growth, both in physical facilities and in emphasis on pure research and graduate training. It also indicated a new orientation, broadening the traditional scientific and engineering curricula to exploit new resources and to meet new needs. Case Institute of Technology celebrated its centennial in 1980.

Western Reserve University was chartered in 1884, succeeding Western Reserve College in its affiliation with the School of Medicine. In 1888, the University established the College for Women, renamed Flora Stone Mather College in 1931. As the needs of the community became evident, the University grew. In 1892, the School of Law began operations, and in the same year, the School of Dentistry was founded to supplement the work of the School of Medicine. In 1903, a donation from Andrew Carnegie allowed the establishment of the School of Library Science at the request of the Cleveland Public Library, and in 1916, the social agencies of Cleveland petitioned for the founding of the School of Applied Social Sciences, the first in its field to be affiliated with a university. During the early 1920's, both the School of Medicine and Lakeside Hospital, precursor of University Hospitals, moved from downtown to their present location on the campus. In 1923, the Lakeside Hospital School of Nursing became a part of the

University, and was renamed Frances Payne Bolton School of Nursing in honor of its benefactor. The Institute of Pathology was founded in 1929 as a joint department of the University and University Hospitals. The juxtaposition of the University Hospitals and the health science schools of the University created a major center for medical study and care.

By the mid-twenties, the education of adults was a matter of concern to thoughtful Clevelanders, and under the leadership of Newton D. Baker, Cleveland College was founded in 1925 to fill that need. Adelbert, Flora Stone Mather, and Cleveland Colleges were then the undergraduate schools of Western Reserve University. In 1972, the three colleges merged into one unit, which in 1973 took the historic name of Western Reserve College.

In 1926, the Graduate Department of the University was reorganized as the Graduate School; it was joined by the Case Graduate School in the federation. In 1948, the Graduate School of Business was established; and in 1967, the management activities of Case joined it to form the School of Management. In 1980, the School of Management was named the Weatherhead School of Management, in recognition of a gift from the Weatherhead Foundation.

During the 1950's, some of the advantages of proximity, which had seemed promising in 1880, again became evident. Case Institute and Western Reserve University united with University Hospitals to create the University Circle Development Foundation, since joined by many other institutions in the area. Gradually, the two schools moved toward a common calendar and joint services, merged their department of Philosophy, allowed registration interchange, placed all language instruction at Western Reserve, and formed cooperative departments of Astronomy at Case and Geology at Western Reserve. Each step made the need for closer cooperation more evident. In 1966, a joint committee of trustees of Case Institute and Western Reserve University created a commission chaired by Henry T. Heald to study the relationships and potential of the two institutions. The recommendation of the commission was unanimous and enthusiastic, suggesting federation of the two schools as "an adventure in higher education without precedent." Their final report was entitled "Vision of a University" and led to the decision of the trustees of both institutions to federate.

Case Western Reserve University was created on July 1, 1967. Having adopted the date of founding of the

older partner in the federation, the new University celebrated its sesquicentennial in 1976.

The first president of Case Western Reserve University was Robert W. Morse, who had been appointed president of Case Institute of Technology a year earlier. John S. Millis, who had been president of Western Reserve University since 1949, became Chancellor of the new institution. On President Morse's resignation in October, 1970, Louis A. Toepfer, then dean of the School of Law, became acting president. He was appointed president in September, 1971, and served until his resignation on June 30, 1980. David V. Ragone, former dean of the College of Engineering at the University of Michigan, became the third president of the University on July 1, 1980. On July 1, 1987, the former provost of Dartmouth College, Agnar Pytte, took office as the University's fourth president.

David Auston, who had been provost at Rice University assumed the presidency on July 1, 1999, and served until his resignation in April, 2001. James W. Wagner, provost of the university since 2001, was appointed interim president of Case Western Reserve University on May 4, 2001. Edward M. Hundert, dean of the School of Medicine and Dentistry at University of Rochester, served as president of Case Western Reserve University from August 1, 2002 until he submitted his resignation on March 15, 2006. Gregory L. Eastwood, former president of SUNY Upstate Medical University, was appointed interim president of the University on June 2, 2006; he served until June 30, 2007. Barbara E. Snyder, provost and executive vice president at Ohio State University, began her tenure as the first woman to hold the office of president at Case Western Reserve University on July 4, 2007.

The authority of Case Western Reserve University is vested in the Board of Trustees. Its responsibilities include those of electing the president, establishing policies, approving the appointment, promotion and tenure of faculty, authorizing the establishment or discontinuance of any particular academic unit of the University, and approving the University's budget. Trustees normally serve a four~~three~~-year term. The trustees exercise their responsibility to monitor academic programs through a network of visiting committees for the major divisions of the University. The visiting committees serve as a link between the college, school, or academic division and the Board of Trustees, reporting to the Board's Academic Affairs Committee or Student Life Committee, as appropriate.

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The president is the chief executive officer of the University. The provost, who reports to the president, is the University's chief academic officer. Reporting to the provost are the deans of the University's schools: Mandel School of Applied Social Sciences, ~~School of Dentistry~~[School of Dental Medicine](#), School of Law, Weatherhead School of Management, Frances Payne Bolton School of Nursing, ~~The~~[the](#) Case School of Engineering, the College of Arts and Sciences, and the School of Graduate Studies. The dean of the University's School of Medicine also serves as vice president for medical affairs and reports to the president.

(For a lively, comprehensive account of the University, see *Case Western Reserve: A History of the University 1826-1976*, by C. H. Cramer, Little Brown and Company (1976), published on the occasion of the sesquicentennial.)

**Chapter 2**  
**Organization and Constitution of the Faculty**

## Introduction

The Board of Trustees has delegated to the University Faculty certain powers and responsibilities concerning the University's educational, research, and scholarly activities. Educational policy is recommended to the president for transmittal to the Board of Trustees through the structure described in the "Constitution of the University Faculty."

The faculty of the University comprises eight constituent faculties, each responsible for a particular professional or scholarly discipline or group of related disciplines. The eight include the faculties of Applied Social Sciences; Arts and Sciences; Dentistry; Engineering; Law; Management; Medicine; and Nursing.

All powers of the University Faculty, not reserved for the University Faculty itself, are exercised by the Faculty Senate, which is elected by the constituent faculties. The Faculty Senate also includes voting student members. The president of the University, the provost or a ~~designee deputy designated by of~~ the president, and the secretary of the University Faculty are members *ex officio* of the University Faculty and Faculty Senate.

~~Undergraduate education is governed by the University Undergraduate Faculty.~~

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~~Undergraduate education is governed by the Faculty Senate Committee on Undergraduate Education.~~

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Graduate education is governed by the Faculty Senate Committee on Graduate Studies. ~~The Committee on Graduate Studies includes the dean of Graduate Studies, *ex officio*, the vice president for research and technology management, *ex officio*, nine voting members of the University Faculty and three graduate student members who are nominated by the Graduate Student Senate.~~

The secretary of the University Faculty serves as secretary of the Faculty Senate. Copies of the complete by-laws of the Faculty Senate may be obtained from the Office of the Secretary of the Faculty Senate. The by-laws of each constituent faculty may be obtained from the dean of the respective unit.

## Preamble

The Board of Trustees of the University has delegated to the University Faculty certain powers and responsibilities within ~~coextensive with~~ the scope of faculty competence and consisting of the conduct of the institution's educational, research and scholarly activities. These activities inherently require action in concert among the various scholarly disciplines, and thus call for a coherent structure of group policy formulation and group procedure. The provision of such a structure is the essential function of this constitution.

## ARTICLE I. MEMBERSHIP OF THE UNIVERSITY FACULTY

The University Faculty ~~consists~~ ~~comprised~~ of three different categories of faculty appointments: 1) tenured or tenure track appointments, 2) non-tenure track appointments, and 3) special appointments. **Faculty members described in Sec. A and Sec. B shall be deemed "voting members" of the University Faculty.** Each engage in the missions of faculty of the University as described below:

### Sec. A. Tenured or tenure-track faculty members

Tenured or tenure track faculty members are those persons holding full-time academic appointments at the ranks of professor, associate professor, and assistant professor in the constituent faculties whose obligations to the University include 1) teaching, 2) research and scholarship, and 3) service to the University community. Tenured or tenure track faculty shall be entitled to vote on all matters coming before the University Faculty as well as all matters coming before the constituent faculties in which they are appointed. **All academic titles shall be discipline based.**

### Sec. B. Non-tenure track faculty members

Non-tenure track faculty members are those persons holding full-time academic appointments at the ranks of professor, associate professor, assistant professor, senior instructor, and instructor in the constituent faculties whose obligations to the University include two of the three obligations of the tenured/tenure track faculty, i.e. 1) teaching, 2) research and scholarship or 3) service to the University community. Non-tenure track faculty members shall be entitled to vote on all matters coming before the University Faculty. The by-laws of the constituent faculty shall determine if they may ~~They may be entitled to~~ vote on matters coming before the constituent faculties in which they

are appointed, ~~in accordance with the by-laws of their constituent faculties. All academic titles shall be discipline based.~~

### Sec. C. Special faculty members

Special faculty members are: 1) those persons holding part-time academic appointments, or 2) persons holding full-time academic appointments, but who have specific, limited responsibilities for the duration of a specific project, or for a limited duration. Examples of special appointments are faculty members hired for one semester, who teach one course on a repeated basis, who engage in clinical supervision only without other responsibilities to the University, or who are engaged in a specific project conducted outside the University. In general, special faculty members' obligations to the University shall include one of the three obligations of the tenured/tenure track faculty, i.e. 1) teaching, 2) research and scholarship or 3) service to the university community. The titles held by special faculty members shall be determined according to the by-laws of the constituent faculty to which their appointment is made, subject to approval by the provost, and shall include a modifier to traditional ranks that reflects the nature of the appointment. Special faculty members shall not be entitled to vote on any matter coming before the University Faculty. The by-laws of the constituent faculty shall determine if they may ~~They may be entitled to~~ vote on matters coming before the constituent faculties in which they are appointed, ~~in accordance with the by-laws of their constituent faculties.~~

### Sec. D. Majority of appointments shall be tenured or tenure track

At least a majority of the voting University Faculty members within each constituent faculty shall be tenured or tenure track faculty members. However, under special circumstances which are reviewed by the Faculty Senate and approved by the provost, a constituent faculty may ask for an exception to this rule. Unless otherwise stated in the by-laws or by separate resolution of the constituent faculty, the proportion of tenure/tenure track faculty to non-tenure track faculty within a constituent faculty will be decided by the dean in consultation with that constituent faculty, subject to review by the Faculty Senate and the approval of the provost. ~~However, except under special circumstances which are reviewed by the Faculty Senate and approved by the provost, at least a majority of the voting University Faculty members within each constituent faculty shall be tenured or tenure track faculty members.~~ The provost will monitor and must approve available

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tenured or tenure track positions in all constituent faculties.

**Sec. E. Members ex officio**

The president of the University, the provost or a ~~designee deputy designated by~~of the president, the secretary of the University Faculty, and such other officers of the University as may be specified in the by-laws of the Faculty Senate shall be voting members of the University Faculty by virtue of office.

**Sec. F. List of members of the University Faculty**

By September 1 of each year, the dean of each constituent faculty shall furnish to the Secretary of the University Faculty a list of all ~~full-time voting members of that constituent faculty who comprise~~of the University Faculty, according to the above definitions, showing their respective ranks and voting privileges. Faculty additions or deletions from the list shall be communicated to the ~~s~~Secretary of the University Faculty when they occur. Unless a written challenge is filed with the ~~s~~Secretary of the University Faculty, each person whose name appears on any of these lists shall be a member of the University Faculty. Such a challenge shall be adjudicated by the Faculty Senate.

**ARTICLE II. OFFICERS OF THE UNIVERSITY FACULTY**

**Sec. A. Chair**

The president of the University shall be chair of the University Faculty.

**Sec. B. Vice Chair**

The chair of the Faculty Senate shall be vice chair of the University Faculty.

**Sec. C. Secretary**

~~The secretary of the University Faculty shall update and make available prepare and distribute~~ to every member of the University Faculty, as defined in Article I, Section A-C, a *Faculty Handbook* setting forth all university policies and procedures directly affecting members of the University Faculty.

**ARTICLE III. AUTHORITIES AND POWERS OF THE UNIVERSITY FACULTY**

**Sec. A. Authorities**

Those authorities delegated by the Board of Trustees to the faculty for the educational, research and scholarly activities of the University shall reside in the University Faculty.

**Sec. B. Powers Reserved**

The University Faculty, on recommendation of the Faculty Senate, as provided in Article V, Section A, Paragraph 2, shall make recommendations to the president for consideration and transmittal to the Board of Trustees concerning ~~amendments to the Constitution of the University Faculty (Chapter 2)~~; the establishment, discontinuance, or separation of any college, school, or constituent faculty, or the merging of two or more of such organizational units; or the consolidation of the University with other academic organizations. The University Faculty shall have the rights of initiative and referendum under procedures specified in Article VIII.

**ARTICLE IV. MEETINGS OF THE UNIVERSITY FACULTY**

**Sec. A. Annual Meeting**

~~The University Faculty shall have an annual meeting early in the fall term. The agenda for the annual meeting shall include a report by the president on the state of the University and such additional business as may be introduced by the process of initiative as provided in Article VIII. Staff may be invited by the president and (or?) the chair of the Senate to attend the report on the state of the University and discussion thereon. That report shall then be delivered immediately after the meeting is called to order and all other business that concerns just the University Faculty, if any, shall follow discussion of the report.~~

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**Sec. B. Special Meetings**

Special meetings of the University Faculty may be called by the president or by the Faculty Senate, or upon a petition of ten percent of the voting members of the University Faculty stating the purpose of the proposed meeting. The petition shall be delivered to the secretary of the University Faculty who shall certify ~~the validity of the petition~~ to the president,

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who in turn shall call the special meeting within thirty (30) days of receiving the certified petition.

### Sec. C. Emergency Meetings

An emergency meeting of the University Faculty may be called by the president or by the chair of the Faculty Senate.

### Sec. D. Notification and Agenda

The chair of the Faculty Senate, or on the chair's designation, the secretary of the University Faculty, shall notify each voting member of the University Faculty at least ten days before each annual meeting and special meeting. Such notification shall be in writing and shall specify the time, the place, and the agenda of the meeting. Any main motion to be introduced at an annual meeting or a special meeting shall be included in the agenda.

### Sec. E. Quorum and Rules of Order

Par. 1. A quorum of a meeting of the University Faculty shall consist of thirty percent of the voting members, except that at a meeting called by petition, a quorum shall be forty percent.

Par. 2. Meetings shall be conducted according to the latest edition of *Robert's Rules of Order Newly Revised*, unless otherwise specified.

## ARTICLE V. THE FACULTY SENATE

### Sec. A. Purpose and Functions

Par. 1. There shall be a Faculty Senate, which shall meet regularly to exercise all powers of the University Faculty not reserved to the University Faculty itself or delegated elsewhere by the University Faculty.

Par. 2. The powers and obligations of the Faculty Senate shall include but not be limited to those following:

- a. Making recommendations to the University Faculty on all issues presented to the University Faculty, including those specified in Article III, Section B.
- b. Making recommendations to the president for consideration and transmittal to the Board of Trustees with respect to policies governing:
  1. Standards of appointment, reappointment, promotion, tenure and termination of service of members of the constituent faculties;
- c. Making recommendations to the president for consideration and transmittal to the Board of Trustees with respect to:
  2. Standards for curricula and content of all degree programs;
  3. Standards and facilities for research and scholarship;
  4. Admission standards and academic requirements for students;
  5. Awarding of degrees in course;
  6. Awarding of honorary degrees.
- d. Advising and consulting with the president on the appointment of major academic officers other than those of individual constituent faculties, on the formulation of the budget, on the allocation of the University's resources and facilities, on long-range planning, on the composition of faculty benefits, and on other matters of similar concern to the University Faculty.
- e. Reviewing current programs, policies and organizational structures with regard to their effectiveness, and exercising initiative in proposing the development and introduction of new programs, policies, and organizational structures.
- f. Recommending amendments of this constitution, as provided in Article IX.

Approval of the University academic calendar and modifications in the university calendar except in the case of extraordinary circumstances other than those of administrative feasibility.

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### Sec. B. Meetings

Par. 1. The by-laws of the Faculty Senate shall provide as to frequency of regular meetings and emergency meetings, provided, however, that each year the Faculty Senate shall hold not fewer than two regular meetings during the period from September to December, inclusive, nor fewer than two during the period from January to May, inclusive.

Par. 2. The by-laws of the Faculty Senate shall specify rules concerning the calling of meetings by petition or otherwise, notice of meetings, agenda, quorum, meeting procedures, and the distribution and approval of minutes.

### Sec. C. Membership

The voting members of the Faculty Senate shall be the president of the University, the provost or a [designee deputy designated by of](#) the president, the secretary of the Faculty Senate, elected voting members of the University Faculty apportioned as specified in Article V, Section F, the chair of each standing and *ad hoc* committee of the Faculty Senate, for the duration of such committee chairmanship, one undergraduate student, one student enrolled in the School of Graduate Studies, and one student enrolled in a post-baccalaureate program in any of the professional schools, the three student members to be selected by their respective constituencies.

### Sec. D. Privilege of Attendance

Members of the Board of Trustees, a [designee deputy appointed by of](#) the provost, vice presidents, deans, and other academic officers of equivalent rank, as well as others designated in the Faculty Senate by-laws may attend all meetings of the Faculty Senate and may participate in its discussions. Student and faculty members of committees of the Faculty Senate who are not elected senators may attend all meetings of the Faculty Senate, and may participate in the discussions of the Faculty Senate related to their committee's work. Other members of the university community may attend designated meetings with the permission of the chair.

### Sec. E. Officers

Par. 1. The Faculty Senate shall elect annually from among the voting members of the University Faculty a chair-elect, who shall serve as vice chair during his or her first year of office and shall become chair of the Faculty Senate during his or her second year in office and past chair in the third year. If not already an elected member of the Faculty Senate, the vice chair, the chair, and the past chair shall be voting members of the Faculty Senate by virtue of office. The chair of

the Faculty Senate, or in the chair's absence, the vice chair, shall preside over the Faculty Senate and shall be vice chair of the University Faculty.

Par. 2. The secretary of the University Faculty shall serve *ex officio* as secretary of the Faculty Senate.

Par. 3. Additional officers of the Faculty Senate may be selected in a manner and for duties and terms to be specified in the by-laws of the Faculty Senate.

### Sec. F. Apportionment, Election, Term of Office, and Vacancies

Par. 1. APPORTIONMENT. Pursuant to Article V, Section C, each constituent faculty of fewer than seventy voting members of the University Faculty shall elect three voting members of the Faculty Senate, each constituent faculty of at least 70 but fewer than 150 shall elect five and each constituent faculty of 150 or greater shall elect ten. The Department of Physical Education and Athletics shall have one voting member of the Faculty Senate. For purposes of apportionment, the membership of any constituent faculty shall be deemed to consist of only those members who are voting members of the University Faculty as defined in Article I. Reapportionments shall be made prior to senatorial elections in any year as may be required by changes in the number of members of each constituent faculty or by changes in the number or identity of constituent faculties. For the purpose of such reapportionment, the secretary and the chair of the Faculty Senate shall have reference to the lists of faculty members furnished by the deans of the constituent faculties as provided in Article I of this constitution and shall inform each dean as to the resulting number of senators to be elected that year by that faculty.

Par. 2. ELECTION. Each elected faculty member of the Faculty Senate shall be elected by majority vote of the constituent faculty represented, but no one such member shall represent more than one electorate. The Department of Physical Education and Athletics shall elect its faculty senator by majority vote. Each member of the University Faculty holding appointments in more than one constituent faculty shall vote in senatorial elections and be eligible for election to the Faculty Senate as a member of that faculty in which the member holds the primary appointment. The senatorial elections shall be held in the spring semester. The newly elected senators shall take their seats at the first meeting subsequent to the spring commencement.

Par. 3. TERM OF OFFICE. The elected faculty senators representing constituent faculties shall serve overlapping three-year terms to end on

commencement day of the terminal year. The faculty senator of the Department of Physical Education and Athletics shall serve a three-year term. Excepting as otherwise provided in this constitution, any elected faculty senator who shall have been a member of the Faculty Senate for three consecutive years shall not be eligible for election for a fourth consecutive year, whether representing the same or another constituency, but after the lapse of one year following three consecutive years of membership, he or she shall again be eligible for election.

Par. 4. VACANCIES OTHER THAN LEAVES OF ABSENCE. Faculty senatorial vacancies, other than those occasioned by leaves of absence from the University, shall be filled [by the constituent faculty](#) for only the unexpired portion of the term. The incumbent who completes the unexpired term shall, upon completion, be eligible for immediate election to serve for a maximum of three additional consecutive years.

Par. 5. LEAVES OF ABSENCE. Faculty senatorial vacancies occasioned by leaves of absence from the University shall be filled for only the duration of the absence. Should the period of absence terminate before the end of the senatorial term so vacated, the original incumbent, upon return to the University, shall resume membership and complete the term. Should the period of absence terminate at the same time as the senatorial term, both the original incumbent and the incumbent who shall have completed the vacated term shall be eligible for immediate election to serve for a maximum of three additional consecutive years.

#### Sec. G. Annual Report

Each year, the chair of the Faculty Senate shall [make available submit](#) to all [voting](#) members of the University Faculty a report on the activities of the Faculty Senate that year.

### ARTICLE VI. COMMITTEES OF THE FACULTY SENATE

#### Sec. A. Executive Committee

Par. 1. The Executive Committee shall consist of thirteen persons. The president of the University, or, in the absence of the president, a [designee deputy designated by of](#) the president; the provost; the chair of the Faculty Senate; the vice chair of the Faculty Senate; the immediate past chair of the Faculty Senate; the secretary of the University Faculty shall be members *ex officio*. In addition, there shall be seven faculty members of the Faculty Senate elected at large by the Faculty Senate for one-year terms. A member

may be successively re-elected to membership of the Executive Committee for the duration of his or her term as a member of the Faculty Senate. The chair of the Faculty Senate or, in the absence of the chair, the vice chair shall serve as chair of the Executive Committee.

Par. 2. The Executive Committee shall consult with the president on such matters as the president may bring before it; it shall be empowered to act for the Faculty Senate between meetings on matters requiring emergency action; and it shall advise the president in the selection of officers of academic administration whose positions carry responsibilities extending beyond a single constituent faculty.

Par. 3. The Executive Committee shall set the agenda for meetings of the Faculty Senate, subject, however, to such exceptions as may be specified in the by-laws of the Faculty Senate.

Par. 4. The Executive Committee shall report all actions and recommendations to the Faculty Senate.

#### Sec. B. Nominating Committee

Par. 1. The Nominating Committee shall consist of voting members of the University Faculty, one representing each constituent faculty, to be selected by the faculty senators representing that faculty. The dean of each constituent faculty shall administer the selection. The term of membership on the Nominating Committee shall be two years. A member of the Nominating Committee may serve no more than two terms consecutively. Members shall serve overlapping two-year terms.

Par. 2. The Nominating Committee shall nominate candidates for the position of chair-elect and for membership of the standing and *ad hoc* committees of the Faculty Senate, unless otherwise specified. The Faculty Senate shall elect a chair-elect and members of such standing and *ad hoc* committees from the nominees named by the Nominating Committee, except that additional nominations shall be invited from the floor. No nominations shall be valid unless the proposed nominee shall have signified in advance a willingness to serve.

#### Sec. C. Budget Committee

Par. 1. **The Budget committee shall consist of one voting member elected by each constituent faculty budget committee for a term of not less than two years, three members of the University Faculty at large, at least one of whom must be an elected member of the Faculty Senate, the chair of the**

Committee on Faculty Compensation *ex officio*, and such additional members *ex officio* as shall be specified in the Faculty Senate By-Laws. The at-large members shall be elected to serve overlapping three-year terms. One of the at-large members shall serve as the chair of the Budget Committee. Should the terms of senatorial members of the Budget Committee extend beyond their terms as members of the Faculty Senate, they shall complete their committee terms as non-senatorial members.  
~~The Budget Committee shall consist of six voting members of the University Faculty, at least three of whom must be elected members of the Faculty Senate, the chair of the Committee on Faculty Compensation *ex officio*, and such additional members *ex officio* as shall be specified in the by-laws. Members of the committee shall be elected to serve overlapping three-year terms. Should the terms of senatorial members of the Budget Committee extend beyond their terms as members of the Faculty Senate, they shall complete their committee terms as non-senatorial members.~~

Par. 2. The Budget Committee shall participate with the university administration to assure that the budgetary goals and priorities are responsive to the academic plans.

Par. 3. The Budget Committee shall review and report to the Faculty Senate on the adherence to budgetary priorities and the attainment of budgetary goals. The Budget Committee shall advise the Faculty Senate on the financial feasibility of the University's current and planned education programs, activities, and facilities, and their effect on the operating budget, capital requirements, and financial health of the University. The Budget Committee shall also advise the Faculty Senate on budgetary questions as they affect current and planned educational programs, activities, and facilities.

Par. 4. The members of the Budget Committee shall serve also as the elected faculty representatives of the University [Planning and](#) Budget Committee which reports to and advises the president in the preparation of the budget of the University.

Par 5. Each constituent faculty shall have a Budget Committee. The regular members of each Budget Committee shall be selected from among the University voting faculty of that constituent faculty by direct election or by appointment by a directly elected body of that constituent faculty. In addition, each Budget Committee may include additional members *ex officio* as needed.

#### Sec. D. Committee on Graduate Studies

Par. 1. The Committee on Graduate Studies shall consist of the dean of graduate studies, *ex officio*, the vice president for research and technology management, *ex officio*, nine voting members of the University Faculty elected for overlapping three-year terms, three graduate student members elected for one-year terms, and the professional school senator, *ex officio*. The Nominating Committee, in consultation with the dean of graduate studies, shall select nominees for election to the committee on the basis of participation in graduate research and in graduate study and instruction. Such selection shall be broadly representative of graduate disciplines.

Par. 2. The Committee on Graduate Studies shall review and recommend to the Faculty Senate with respect to the academic standards and degree requirements of all departmental, inter-departmental, inter-divisional constituent faculty, and *ad hoc* and special programs under the administration of the dean of graduate studies.

#### Sec. E Committee on Undergraduate Education

Par. 1. The Committee on Undergraduate Education shall consist of (1) the following voting members: the Provost, *ex officio*, three voting members of the University Faculty elected by the Faculty Senate for overlapping three-year terms, one representative each from the College of Arts & Sciences, the Case School of Engineering, the Frances Payne Bolton School of Nursing, and the Weatherhead School of Management appointed by the executive committee/faculty council, one voting member of the University Faculty from the Department of Physical Education and Athletics, one voting member from the University Faculty from the Departments in the Case School of Medicine that offer undergraduate majors, two undergraduate students selected by the Undergraduate Student Government for a one-year term; (2) Up to four non-voting members, designated by the Provost from among members of the administration with the rank of deputy, vice or associate-provost, vice-president, or dean and having specific responsibility for undergraduate education and life. (Hereinafter, voting members of the University Faculty who have a primary or joint appointment in at least one of these four constituent faculties, or in the Department of Physical Education and Athletics, or in one of the Departments in the Case School of Medicine that offer undergraduate majors are collectively referred to as the "Undergraduate Program Faculty", or "UPF".) The Faculty Senate shall appoint a chair and vice chair from the voting members of the Undergraduate Program Faculty who are members of the Committee

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on Undergraduate Education, with either the chair or the vice chair assuming the role of chair in the subsequent year, assisted by the vice chair appointed in that year.

Par. 2. (a) The Undergraduate Program Faculty is responsible for the basic policies that govern undergraduate education at the University. The Committee on Undergraduate Education shall review and recommend to the Faculty Senate with respect to changes in standards of admission for undergraduate students; changes in academic requirements and regulations for undergraduate students; curricula, contents, and standards for newly-proposed undergraduate degree programs<sup>1</sup>; changes in existing undergraduate curricula and degree programs within a constituent faculty that specifically influence undergraduate degree programs or students enrolled in undergraduate degree programs in other constituent faculties (the Provost, or the Provost's designee, in consultation with the chair of the Committee on Undergraduate Education will decide which course action forms require review by the Committee); resource allocations for undergraduate education; outcome assessment of undergraduate degree programs; the discontinuance of existing undergraduate degree programs; standards for undergraduate academic standing; standards for receipt and retention of merit-based undergraduate financial aid; standards of undergraduate academic integrity and student conduct; standards and facilities for undergraduate research and scholarship; and conditions of undergraduate student life. The Committee on Undergraduate Education shall be responsible for the interpretation of existing policies and the application of existing academic rules to decide cases that involve academic probation, separation, and readmission; to review and to decide upon applications for undergraduate admission to the University; to decide cases of receipt and retention of merit-based undergraduate financial aid; and to report its actions to the Faculty Senate as well as the appropriate administrative offices. The Committee on Undergraduate Education shall receive regular reports from the executive or other governing committees of the constituent faculties, departments, or programs of the UPF that involve matters of undergraduate education not within the charge of the Committee on Undergraduate Education and as a matter of communication transmit them to the Faculty Senate as well as the appropriate administrative offices. The

<sup>1</sup> Degree programs are the major and minor academic programs that are officially recognized by the Office of Undergraduate Studies and appear on an official academic transcript of a student.

Committee on Undergraduate Education shall be empowered to form subcommittees as it judges appropriate to discharge its duties and to appoint to these subcommittees voting members of the University Faculty, staff members from administrative units that serve the undergraduate mission, and undergraduate students.

(b) The Undergraduate Program Faculty is responsible for the administration of all undergraduate programs at the University. All proposals for undergraduate courses and programs must be submitted for appropriate review through at least one of the four UPF Constituent Faculties.

Par. 3. (a) When issues arise that in the judgment of the Chair or a majority of the members of the Committee on Undergraduate Education, or of the Chair of the Faculty Senate involve important basic policies that govern undergraduate education at the University and extend beyond degree programs in a constituent faculty, the Committee on Undergraduate Education may refer proposals for action to a meeting of the Undergraduate Program Faculty for discussion. After that meeting, eligible faculty members in those faculties, departments, or programs shall vote on proposals by electronic ballot. The result of that vote shall be conveyed to the Faculty Senate for action at its next meeting after the vote.

(b) Meetings of the Undergraduate Program Faculty defined in Par. 3(a) to consider proposals for action regarding issues that involve important basic policies that govern undergraduate education at the University and extend beyond degree programs in a constituent faculty may also be called by the President, by the Provost, by the Chair of Committee on Undergraduate Education, by the Chair of the Faculty Senate, or upon written petition, stating the proposal for action at the meeting and signed by not less than 10 (ten) percent of the total number of eligible voting members of the UPF. Such a petition shall be delivered to the Chair of the Committee on Undergraduate Education, who shall certify the signatures to the Committee. The Committee on Undergraduate Education shall specify a meeting date upon receipt of the Petition, such meeting to take place no later than 30 (thirty) calendar days after receipt of the petition.

(c) The President, or in the absence of the President, the Provost, or in the absence of the Provost, the Chair of the Committee on Undergraduate Education, shall preside at all meetings of the Undergraduate Program Faculty defined in Par. 3(a).

Par. 4. In discharging its responsibilities, the Committee on Undergraduate Education shall observe university policies governing academic freedom.

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**Sec. EF. Other Standing Committees**

Par. 1. The by-laws of the Faculty Senate shall provide for additional standing committees and shall assign explicitly to each the appropriate areas of Senate powers and obligations from among those enumerated in this constitution, Article V, Section A.

Par. 2. As may be provided in the by-laws of the Faculty Senate, members of such additional standing committees may include members of the university community who are not themselves members of the Faculty Senate.

Par. 3. All standing committees shall report to the Faculty Senate.

constituent faculty shall discharge the following obligations:

- a. The recommendation to the president of promotions and of initial [faculty appointments at these ranks](#);
- b. Recommendation to the president of tenure appointments;
- c. The election of faculty members to the Faculty Senate;
- d. The recommendation to the Board of Trustees of awarding of degrees in course.

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**Sec. FG. Ad hoc Committees**

Par. 1. *Ad hoc* committees of the Faculty Senate may be established by the Executive Committee. The Executive Committee shall provide each such *ad hoc* committee with a specific charge stated in writing, and the *ad hoc* committee shall confine itself to the fulfillment of this charge unless otherwise authorized in writing by the Executive Committee. The maximum term of any such *ad hoc* committee shall be twelve months, subject to extension at the discretion of the Executive Committee.

Par. 2. At the discretion of the Executive Committee, such *ad hoc* committees may include members of the university community who are not themselves members of the Faculty Senate.

Each constituent faculty shall be governed in accordance with by-laws adopted by that faculty and ratified by the Faculty Senate.

Par. 2. Each constituent faculty shall have a dean or otherwise designated chief executive officer appointed for a term of office by the president after consultation with that faculty. Each constituent faculty shall establish procedures for advising the president [regarding the appointment of a dean or chief executive officer](#), pursuant to the guidelines found in the *Faculty Handbook* (Chapter 3).

Par. 3. Each constituent faculty shall be responsible to the University Faculty for execution of the programs delegated to it.

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**Sec. GH. Multipartite Committees and Commissions**

The Faculty Senate may participate on behalf of the University Faculty in the establishment of multipartite committees and commissions of faculty and other agencies and groups of the University. The Faculty Senate shall approve the faculty membership of such bodies on recommendation of the Nominating Committee.

Par. 4. In discharging its responsibilities, each constituent faculty shall observe university policies governing academic freedom, and its by-laws shall provide that the decision-making processes in its government are essentially democratic.

**Par. 5: Each constituent faculty shall have a Budget Committee. The regular members of each Budget Committee shall be selected from among the University voting faculty of that constituent faculty by direct election or by appointment by a directly elected body of that constituent faculty. In addition, each Budget Committee may include additional members *ex officio* as needed.**

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**ARTICLE VII. THE STRUCTURE OF THE UNIVERSITY FACULTY**

**Sec. A. Constituent Faculties**

Par. 1. For the purpose of organization and execution of the educational and research programs of the University, the University Faculty shall be organized into constituent faculties, each responsible for a particular professional or scholarly discipline or group of related disciplines. In pursuit of this function, each

**Sec. B. Departments**

Par. 1. Any constituent faculty may be organized into departments. The department shall be the basic unit of those faculties so organized. Each member of the University Faculty holding a principal appointment in such a faculty shall normally have an appointment in a department.

Par. 2. The department shall provide a central administration and a focal point for an academic discipline or for closely related disciplines; it shall plan and provide programs of teaching and scholarly work and professional activity, assume the responsibility for implementing these programs, and determine the policies necessary to guide them and the practices necessary to carry them out. The department shall be responsible for the content of the undergraduate curricula and programs in its disciplinary fields. It shall maintain and staff the facilities which lie within its jurisdiction.

Par. 3. Each department shall have a chair appointed by the president after consultation with the members of that department. Such consultation shall be conducted by the dean of the constituent faculty and reported to the president. Each constituent faculty shall establish procedures for advising the president regarding appointment of a chair pursuant to the guidelines found in the *Faculty Handbook*. These procedures shall be incorporated in the by-laws of the constituent faculty.

### Sec. C. Graduate Programs

Subject to regulations and standards determined by the Faculty Senate upon recommendation of the Committee on Graduate Studies, as provided in Article VI, Section D, Paragraph 2, each department, and each constituent faculty not having a departmental structure, shall be charged with the responsibility for its graduate programs, and each constituent faculty shall be charged with the responsibility for its inter-departmental and inter-divisional graduate programs. Graduate programs in which more than one constituent faculty participate shall be the joint responsibility of the participating faculties.

### Sec. D. University Undergraduate Faculty

Par. 1. For the governance of undergraduate education there shall be a single academic unit, the University Undergraduate Faculty, comprised of members of the constituent faculties of Arts and Sciences, Engineering, Management, Nursing, the departments or programs in the constituent faculty of Medicine that offer undergraduate majors, and the Department of Physical Education and Athletics. Membership in this unit shall be designated in the by-laws of the University Undergraduate Faculty. The constituent faculties acting through the University Undergraduate Faculty are responsible for the basic policies which govern undergraduate education at the University. In regard to undergraduate education, the constituent

faculties acting through the University Undergraduate Faculty are responsible for recommending to the Faculty Senate standards of admission for students, academic requirements for students, curricula and content of existing degree programs, standards and facilities for research and scholarship, new degrees, and the discontinuance of existing degrees. The University Undergraduate Faculty is not a constituent faculty of the University Faculty.

Par. 2. The University Undergraduate Faculty shall prepare by-laws which shall be in force upon ratification by the Faculty Senate. The decision-making structures provided by such by-laws shall recognize and reflect the essential interdependence of the students, instructional staff, and academic programs of university undergraduate education.

Par. 3. The University Undergraduate Faculty shall designate an executive committee; a committee on academic standing; a committee on curriculum; a committee on student life, services, and environment; a committee on undergraduate admission; and a committee on academic computing and information resources. The University Undergraduate Faculty may designate such other committees as required. Committees created under this paragraph shall have student representation when legally permitted.

Par. 4. The by-laws of the University Undergraduate Faculty shall specify the officers, membership and responsibilities of the standing committees, and the regulations governing committee and faculty meetings.

Par. 5. The president of the University shall be the chair of the University Undergraduate Faculty, *ex officio*. In the absence of the president, the provost shall be the chair of the University Undergraduate Faculty, *ex officio*. The chair of the Executive Committee of the University Undergraduate Faculty shall be the vice chair of the University Undergraduate Faculty, *ex officio*.

Par. 6. In discharging responsibilities, the University Undergraduate Faculty shall observe university policies governing academic freedom; and its by-laws shall provide that the decision-making processes in its government be essentially democratic.????

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## **ARTICLE VIII. INITIATIVE AND REFERENDUM**

### **Sec. A. Initiative**

A motion or resolution may be placed on the agenda of a meeting of the University Faculty by any of the following initiative procedures:

1. A request of the president,
2. A request of the chair of the Faculty Senate,
3. A petition signed by forty percent of the voting members of the Faculty Senate,
4. A petition signed by two-thirds of the voting members of the University Faculty in any constituent faculty, or
5. A petition signed by ten percent of the voting members of the University Faculty.

### **Sec. B. Referendum**

Any action of the Faculty Senate may be made subject to referendum by the University Faculty, within six months of the date of such action, by any of the procedures specified above for initiative. A two-thirds vote of the voting members of the University Faculty present at the meeting called to consider such referendum shall be required to overrule the action of the Faculty Senate. In the event that the meeting does not achieve a quorum, that petition of referendum shall expire.

## **ARTICLE IX. AMENDMENT**

Par. 1. An amendment of this constitution may be proposed by majority vote of the Faculty Senate or by action of the voting members of the University Faculty at an annual meeting or at a special meeting, subject to the procedures specified in Article VIII, Section A. The vote on any proposed amendment shall be by mail ballot of the University Faculty and shall require the approval of sixty percent of those voting members returning ballots. In the case of an amendment proposed by majority vote of the Faculty Senate, the president of the University shall call a special meeting of the University Faculty to discuss the proposed amendment; that meeting shall take place not later than the fifth day preceding the final date for submission of ballots.

Par. 2. At least once every five years, the Faculty Senate shall review all provisions of this constitution and recommend to the University Faculty as to desirable amendments.

Par. 3. After its approval by the voting members of the University Faculty, an amendment shall be submitted to the president for consideration and transmittal to the Board of Trustees for approval. The amendment shall take effect immediately upon receipt of trustee approval unless the amendment specified otherwise.

## **ARTICLE X. RATIFICATION**

Par. 1. This constitution shall be approved by a sixty percent majority vote of a meeting of the Faculty Senate as constituted under the 1969 constitution. Upon such Senate approval, a draft of this constitution shall be distributed to all members of the University Faculty, and a meeting of the University Faculty shall be held to discuss it. The constitution shall then be submitted to a mail ballot of the University Faculty and shall require the approval of sixty percent majority of those members of the University Faculty returning ballots. In the event of failure to achieve such majority, the constitution shall be referred back to the Faculty Senate.

Par. 2. After approval by the University Faculty, the constitution shall be submitted to the president for consideration and transmittal to the Board of Trustees for approval.

~~Par. 3. This constitution shall supersede the constitution of 1969 on June 15 following its approval by the Board of Trustees.~~

*\*Approved by the Faculty Senate 5/9/77;  
approved by the University Faculty 5/24/77;  
approved by the Board of Trustees 6/22/77;  
amended by the University Faculty 10/3/79;  
approved by the Board of Trustees 10/9/79;  
amended by the University Faculty 5/17/82;  
approved by the Board of Trustees 6/3/82;  
amended by the University Faculty 9/27/85;  
approved by the Board of Trustees 10/8/85;  
amended by the University Faculty 2/27/87;  
approved by the Board of Trustees 3/18/87;  
amended by the University Faculty 10/8/87;  
approved by the Board of Trustees 10/24/87;  
amended by the University Faculty 10/13/88; approved by the Board of Trustees 11/15/88;  
amended by the University Faculty 10/11/90; approved by the Board of Trustees 10/13/90;  
amended by the University Faculty 10/11/91; approved by the Board of Trustees 10/19/91;  
amended by the University Faculty 10/15/93; approved by the Board of Trustees 10/30/93;  
amended by the University Faculty 10/5/95;*

*approved by the Board of Trustees 11/9/95;  
amended by the University Faculty 10/14/94; approved by the  
Board of Trustees 6/15/96;  
amended by the University Faculty 10/13/00; approved by the  
Board of Trustees 3/11/00;  
amended by the University Faculty 10/12/01; approved by the  
Board of Trustees 11/7/01;*

*amended by the University Faculty 4/23/03; approved by the Board  
of Trustees 5/19/03.  
amended by the University Faculty 4/57/05; approved by the Board  
of Trustees 7/13/05*

*amended by the University Faculty 10/5/07; approved by the Board  
of Trustees 10/19/07*

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## Chapter 3

### Policies and Procedures for the Members of the Faculty

## ***INTRODUCTION***

This chapter brings together university policies and procedures of special concern and application to members of the University Faculty. It is in two parts. Part One (Sections I-V) was adopted as a whole by the Board of Trustees in 1973 as a document entitled "Policies and Procedures for the Members of the Faculty of Case Western Reserve University." Part Two contains other policies affecting faculty, some of them also Board adopted. Unless specifically stated, all provisions of this chapter apply to all University Faculty. Where specifically stated, some provisions of this chapter do not apply to special members of the University Faculty. In those cases, the by-laws of the constituent faculty in which the special faculty member is appointed may address the issue.

### ***Ethics in the University\****

Universities seek to preserve, disseminate and advance knowledge. At Case Western Reserve University, as elsewhere, we recognize that to fulfill these purposes requires a norm of expected conduct shared by all in the university community, governed by truthfulness, openness to new ideas, and consideration for the individual rights of others, including the right to hold and express opinions different from our own.

The University's mission rests on the premise of intellectual honesty--in the classroom, the laboratory, the office, and the solitary examination desk. Without a prevailing ethic of honor and integrity, not only in scientific pursuits but in all scholarly activity, the very search for knowledge is impaired. In these respects, each of us--especially but not exclusively faculty--must regard oneself as a mentor for others.

These principles we strive to uphold make it possible for the larger society to place trust in the degrees we confer, the research we produce, the scholarship we represent and disseminate, and the critical assessments we make of the performance of students and faculty, as well as judgments of staff and administrators.

To safeguard the standards on which we all depend, each of us must therefore accept individual responsibility for our behavior and our work and refrain from taking credit for the work of others.

The culture of a university also requires that the rights of all be protected, particularly by those entrusted with authority for judgment of the work of others.

The University being a human community is subject to human failings, ambiguities, and errors. It is therefore the responsibility of the bodies regulating the affairs of faculty, students, and staff to maintain processes for judging and resolving instances where these principles may have been violated. However, all such systems depend for their effectiveness, in turn, on the acceptance of common norms of conduct--the ties of trust which bind the university community together.

*\*Endorsed by the Faculty Senate 5/10/88, and by the Executive Committee of the student organizations.*

## PART ONE

### Introduction

Faculty members of a university are scholars and teachers whose responsibilities within the university are to the students, to their colleagues, and to the administration; their responsibilities beyond the university are to their professions and to the communities, from local to international, of which the university is a part. The manner of meeting these responsibilities is almost as varied as are the members of the university community. Accordingly, it is not feasible to devise detailed procedures to direct the members of the faculty in their role of academic citizens. Nevertheless, it is possible to establish guidelines for standards and procedures. It is, furthermore, possible and desirable to establish guidelines for evaluating the success with ~~which each member fulfills his several roles and for the processes by which he is judged by his peers and the administration:~~ which members of the faculty fulfill their roles and for the processes by which they are judged by their peers and the administration.

The following statement of "Policies and Procedures for the Members of the Faculty of Case Western Reserve University" sets out guidelines for rights, duties, privileges, and obligations of the faculty. Standards are thus fixed to which the by-laws of the several constituent faculties shall conform in accordance with the "Constitution of the University Faculty."

Unless otherwise specifically stated, these policies and procedures apply to all those persons who are members of the University Faculty, as defined in the "Constitution of the University Faculty," and remain in effect until modified through regular procedures.

Changes in, or additions to, these policies and procedures require the approval of the Board of Trustees.

~~In Sections I-V, parentheses indicate interpolated matter added subsequent to the original adoption of the section in order to clarify sense or specify practices used to implement the policy.~~

### ***I. Appointments, Reappointments, Resignations, Promotions, and Tenure*** \*\*

(Except for special faculty appointments, all appointments, all promotions and all tenure and tenure transfer recommendations require approval of the Board of Trustees before a notice of appointment, promotion, tenure award, or tenure transfer may be issued to a faculty candidate. Special faculty appointments may be made by an authorized administrative officer of the University.)

#### A. Notices of Appointment

1. The classification and terms of each faculty appointment shall be specified in a written ~~appointment form~~notice delivered to the faculty member in advance of each academic year (or in advance of the effective date of the appointment). Initial appointments shall be described in detail in letter format. Regardless of when the appointment begins, every full-time tenured, tenure track and non-tenure track appointment term shall have an end date of June 30th. Part-time and special faculty appointments may have an end date appropriate for the appointment. The ~~form~~notice shall be signed by an authorized administrative officer of the University (appropriate dean, the provost, the vice president for medical affairs, or the president) and shall include a section to be signed in acceptance by the appointee and returned.
2. Acceptance or declination of appointment or resignation by the faculty member shall be made not later than April 15, or 30 days after delivery of the appointment ~~form~~notice, whichever occurs later. Resignation shall become effective at the end of the faculty member's appointment term unless the University agrees to special conditions in advance and in writing. Should the University not receive notice of acceptance of appointment terms from the faculty member, it may terminate the appointment by giving notice to the faculty member any time after sixty days of the date of the ~~delivery of the appointment form~~notice of appointment terms. Such nNotice of termination of the appointment is adequate if mailed to the faculty member's latest address on file with the University, return receipt requested.
3. At the time of the initial appointment, the faculty member shall be provided with a general written description of 1) the criteria by which his or her performance will be judged and 2) the teaching, research and scholarship, and service required to maintain faculty status and for renewal of

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appointment, promotion, and/or tenure, as applicable.

#### B. Classifications of Appointment\*

1. An appointment shall be classified as (i) initial, (ii) renewal, or (iii) continuing (for appointments with tenure or for appointments past the first year of several year terms).
2. An appointment shall be classified as (i) full-time, or (ii) part-time. Eligibility for consideration for appointment or reappointment to the full-time faculty must include both of the following qualifications and is subject to approval by the dean: a. fifty percent or more time must be devoted to approved academic activities; and b. the academic activity must be conducted at an approved site. If fifty percent or more of compensation is paid through the University, the full-time faculty member is eligible for fringe benefits, except that a qualified faculty member earning any portion of compensation through the University is eligible to participate in the University's Faculty and Key Administrative Employees' Retirement Plan (Plan A), as specified in that Plan, and may be eligible for certain other benefits as provided in the benefit plan documents. Other categories of faculty may be eligible for certain benefits as specified in the Human Resources Policy Manual or benefit plan documents.
3. An appointment shall be classified by academic title.
4. An appointment shall be classified as (i) with tenure, (ii) without tenure but leading to tenure consideration (i.e. "tenure track"), (iii) without tenure and not leading to tenure consideration (i.e. "non-tenure track), or (iv) special (including for example, "clinical," "research," "visiting," "adjunct," and other titles which may be determined in the by-laws of a constituent faculty). The letter defining each initial appointment which leads to tenure consideration shall specify clearly the academic year in which tenure consideration will become mandatory in accordance with Section I, G.
5. If allowed under constituent faculty bylaws, a faculty member whose initial appointment was in the non-tenure track at the rank of assistant professor or higher may request transfer into the tenure track. Approval of transfer would require:
  - (i) affirmative vote of the majority of the

departmental faculty or where faculty organization is not departmental, majority vote of the appropriate committee of the constituent faculty; (ii) recommendation of the departmental chair (if school is organized into departments); (iii) recommendation of dean of the constituent faculty; and (iv) approval of the provost. Policies in each school may further restrict movement from one track to another. The provost's approval of such a transfer will be based on (i) evidence of demonstrated performance in research, teaching, and service and (ii) the department chair's and/or dean's assurance that the faculty member will be provided with opportunities to develop the components of faculty activity expected of tenure-track faculty. Faculty service at the rank of assistant professor or higher while on the non-tenure track will count as part of the pre-tenure period unless special exemption is made, and the provost will determine the pre-tenure period when a transfer is approved.

6. In cases where an appointment applies to more than one constituent faculty or department or to an administrative office as well as an academic unit, the appointment may be identified either (1) as a primary-secondary appointment or (2) as a joint appointment. For a primary-secondary appointment arrangement, one constituent faculty or department shall be identified as that of the primary appointment and the other as secondary; and responsibility for the initiation of consideration of reappointment, promotion, tenure, or termination shall rest with the constituent faculty or department of primary appointment.

A joint appointment arrangement is intended to promote interdisciplinary research and education. Joint appointments may be made when a faculty member's expertise aligns significantly with the research and educational goals of more than one both constituent faculties or departments. Faculty members with joint appointments have full rights as a faculty member in the involved both constituent faculties or departments. Faculty with joint appointments should attend faculty meetings in both constituent faculties or departments. The salary for faculty with joint appointments shall be agreed upon and stated in writing by the appointing constituent faculties or departments. will be paid 50% from each of the two constituent faculties or departments. -The notice of appointment shall be issued jointly by

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the two-involved constituent faculties or departments.

Consideration of appointment, reappointment, promotion, and/or tenure of faculty with joint appointments shall follow the procedures outlined in this Faculty Handbook, except that:

- a. One constituent faculty or department, designated by the joint appointee by the time of the third-year review, will be responsible for preparing the required paperwork for reappointment, promotion, or tenure based on equal input from both constituent faculties or departments. Each constituent faculty or department is responsible for separately evaluating the materials once they are prepared.
- b. Any recommendation on appointment, reappointment, promotion, or tenure for joint appointees must proceed through both constituent faculties or departments, as applicable, in the usual course.
- c. Each department or constituent faculty will separately make a recommendation as to promotion and tenure for joint appointees. As with all promotion and tenure decisions, the ultimate responsibility for granting promotion and tenure resides with the President, with approval by the Board of Trustees. If tenure is granted across two schools, tenure will reside in both schools.
- d. Both departments/constituent faculties, where applicable, should strive to reach consensus on reappointments, performance evaluations, salary increases, and terminations of joint appointees. When such consensus is not reached between two departments of the same school, those departments shall individually submit their recommendations to the dean of that school for resolution. When such consensus is not reached between two constituent faculties, those faculties shall individually submit their recommendations to the Provost for resolution.
- e. The joint appointee and the appropriate dean(s) shall agree at the time of the appointment as to the appropriate pre-tenure period applicable to the joint appointee, and that pre-tenure period shall be reflected in the notice of appointment.

*\*approved by the Faculty Senate 3/21/05, 4/25/05; Board of Trustees 4/20/05, 7/13/05*

### C. Terms of Appointment

#### 1. Duration of Appointment

- a. Appointments with tenure shall be of unlimited duration, up to retirement, subject only to termination for just cause as provided in I.E. 1-6 below.
- b. Tenure-track appointments without tenure shall normally be made for a term of one to five years. It is preferable that such appointments be for two or three years.
- c. Non-tenure track appointments shall normally be made for a term of one, two, or three years; however, the by-laws of constituent faculty may provide for other terms or for continuing appointments for longer periods.
- d. —Special appointments shall be made for terms appropriate to the purposes for which the appointment is made.

#### 2. Salary

- a. Annual salaries of full-time faculty members shall remunerate service for an academic year of approximately nine months or for a longer period. Each appointment form shall specify the period compensated and the amount of salary for which the University obligates itself. Faculty appointments may be made without obligation for compensation by the University.
- b. It is the policy of the University not to reduce the salary of a faculty member as a means of discipline. Subject to the terms of appointment in the case of special faculty, the annual salary of a faculty member or portion thereof for which Case Western Reserve University is obligated may be reduced without his or her consent only if financial exigent circumstances in the constituent faculty to which the faculty member is appointed necessitate reductions in the salaries of a majority of members of the same constituent faculty.
- c. In the event of financial exigent circumstances in the constituent faculty to

which the faculty member is appointed, so severe as to necessitate reductions in faculty salaries or in the number of tenured faculty members, sound judgments concerning the academic programs and faculty members to be affected will require close faculty participation. Such decisions shall therefore be made by the president with the participation of the Faculty Senate, as specified in the "Constitution of the University Faculty."

- d. In individual cases, a faculty member or his or her department head (or other appropriate administrative officer) may propose a diminution in the faculty member's salary in expectation of correspondingly limited services. If agreement is reached, it shall be confirmed in writing.

### 3. Fringe Benefits

A handbook or other document describing current university fringe benefits shall be noted to be available sent within each letter of initial appointment eligible for fringe benefits. Changes in fringe benefits shall be communicated to faculty members in a timely and appropriate manner. Generally, full-time University Faculty members are eligible for fringe benefits if fifty percent or more of compensation is paid through the University, except that a qualified faculty member earning any portion of compensation through the University is eligible to participate in the University's Faculty and Key Administrative Employees' Retirement Plan (Plan A), as specified in that Plan, and may be eligible for certain other benefits as provided in the benefit plan documents. Other categories of faculty may be eligible for certain benefits as specified in the Human Resources Policy Manual or the benefit plan documents. (See Sec. II, Leaves of Absence, C, Status While on Leave, 2.)

### 4. Special Responsibilities

If an appointment entails special responsibilities, these shall be described in each notice of appointment.

### D. Academic Freedom

- 1. Fundamental to the purposes of the University is the belief that progress in social and individual welfare is ultimately dependent on the

maintenance of freedom in academic processes. Especially vital is the protection of expression which is critical toward conventional thought or established interests.

- 2. Academic freedom is a right of all members of the University Faculty and applies to university activities including teaching and research. Specifically, each faculty member may consider in his or her classes any topic relevant to the subject matter of the course as defined by the appropriate educational unit. Each faculty member is entitled to full freedom of scholarly investigation and publication of his or her findings.

### E. Tenure

- 1. Academic tenure is an essential component of the development and delivery of quality educational and research programs at the University. The basic purpose of tenure is to provide the assurance of academic freedom throughout the University. Another important purpose of tenure is to attract and retain outstanding faculty. Tenured faculty members are protected explicitly against dismissal or disciplinary action because their views are unpopular or contrary to the views of others. Their non-tenured colleagues derive protection by general extension of these principles of academic freedom.
- 2. When awarded, academic tenure rests at the constituent faculty level rather than at the departmental level. The award of academic tenure to a faculty member is a career commitment which grants that faculty member the right to retain his or her appointment without term until retirement. The appointment of a tenured faculty member may be terminated only for just cause. In the event that a tenured faculty member's school, department, or other unit of the University in which the faculty member's primary appointment rests is closed or reduced in size, the University shall nevertheless make all reasonable attempts to provide a tenured faculty member with an appointment of unlimited duration until retirement.

- 3. Examples of just cause for the termination of tenure, tenure track, and non-tenure track faculty members of any faculty member (tenured, tenure track, and non-tenure track non-tenured, or special) include (i) grave misconduct or serious neglect of academic or professional responsibilities, defined in Section IV, Professional Responsibilities, as determined

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through a fair hearing under Section IV.D: (ii) educational considerations, as determined by a majority vote of the entire constituent faculty of the affected individual, which lead to the closing of the academic unit of the University, or a part thereof, in which the faculty member has a primary appointment; and (iii) financial exigent circumstances which force the University to reduce the size of a constituent faculty of the University in which the faculty member has a primary appointment. Unless educational considerations also exist, a tenured faculty member may be terminated for financial exigent circumstances only after all faculty members who are not tenured in that constituent faculty have been terminated, in the order determined by the by-laws of the constituent faculty. Terminations of non-tenured faculty for financial exigency shall occur with at least twelve months notice or at the end of the current appointment term, whichever occurs earlier. In order for a tenured faculty member to be terminated prior to all non-tenured faculty members in that constituent faculty, a majority of the voting members of the constituent faculty in which the affected tenured faculty member has his primary appointment must determine that a financial exigency and educational considerations exist sufficient to justify that action. Under items (ii) or (iii), just cause would be presumed not to have existed if new faculty members were appointed to fulfill the functions of recently terminated faculty.

4. The termination of tenured faculty is considered to be an extreme and extraordinary occurrence. Termination of tenured faculty shall not be made on the basis of short-term, cyclical changes in student enrollment and shall not be arbitrary, capricious, or punitive. The termination of tenured faculty or the closing of a department or school because of educational considerations must reflect long-range judgments that the educational mission of the constituent faculty or the institution as a whole will be jeopardized unless the proposed action is taken. Tenured faculty can be terminated because of financial exigency only after all reasonable attempts to resolve the difficulty have failed. Financial exigent circumstances must be factually established and demonstrably bona fide. If it is determined that a tenured faculty member's primary appointment in a particular constituent faculty shall be terminated for financial exigency or educational considerations, the University shall make all reasonable attempts, including

providing retraining, to transfer the affected faculty member to another position consistent with the discipline of the affected faculty member in 1) another department within the constituent faculty, 2) another constituent faculty within the University, or 3) a position outside the University. Transfers to another position within the University shall be accomplished only after consultation with the dean and department chair (in constituent faculties with a department structure) of the unit to which the affected faculty member will be transferred.

5. The Faculty Senate must review and report on the factual accuracy of a claim of financial exigency or educational considerations sufficient to lead to the termination of tenured faculty. If the termination of tenured faculty appointments is proposed, the university administration and the affected unit shall supply all information required for a full study of the need for the proposed action. If the proposal is to close a unit within a school or college, the faculty of the affected school or college shall have the initial responsibility for studying the need for the closure and for making recommendations. If the proposal is to close a school or college, the Faculty Senate shall have the initial responsibility for studying the need for closure and for making recommendations. The Faculty Senate shall appoint a committee to review the findings of the affected constituent faculty. This review committee shall include faculty representation from both the Budget and the Personnel Committees of the Faculty Senate. The review committee shall report in a timely fashion to the Faculty Senate Executive Committee which shall present the findings to the Faculty Senate. The recommendation of the Faculty Senate shall be forwarded to the president of the University for submission to the Board of Trustees.
6. Tenured faculty members whose appointments are to be terminated pursuant to part (ii) or part (iii) of paragraph 3, above, shall receive a terminal appointment of no less than twelve months.

#### **F. Qualifications and Standards for Appointments, Reappointments, Promotions, and Tenure**

1. The qualifications for faculty appointment and reappointment include the following, as appropriate to the type of appointment:

- (i) an expert knowledge of his or her academic field and a commitment to continuing development of this competence;
  - (ii) a dedication to effective teaching;
  - (iii) a commitment to a continuing program of research or other advanced creative activity, including production of art or artistic performance, or, where more appropriate to the particular academic context, professional service activities; and
  - (iv) a willingness to assume a fair share of university administrative and service tasks.
2. Faculty appointments with tenure or without tenure but leading to consideration for tenure should be based on evidence that the candidate can and will continue to satisfy all of the foregoing qualifications. Faculty appointments on the non-tenure track should be based on evidence that the candidate can and will continue to satisfy item (i) and two of items (ii), (iii), and (iv) of the foregoing qualifications. Special faculty appointments should be based on evidence that the candidate can and will continue to satisfy item (i) and one of items (ii), (iii), and (iv) of the foregoing qualifications.
  3. The criteria for each category of faculty appointment and for promotion and tenure shall be developed by the constituent faculties as appropriate for their individual disciplines, but all criteria are subject to approval of the provost. All criteria shall be described in the by-laws of the constituent faculty. In general, criteria for awarding tenure shall include, at a minimum, a documented national or international reputation for sustained scholarship, as appropriate to faculty rank and discipline.
  4. The by-laws of each constituent faculty shall include clear and comprehensive descriptions of the rights and obligations of each category of its faculty members (i.e. tenured, tenure track, non-tenure track, and special) and the accomplishments necessary for promotions and tenure. The by-laws shall further provide for an appropriate allocation of resources and time (taking into account rank and type of faculty appointment) for scholarly growth, academic achievement and professional development, and shall delineate the commitment of resources that accompany an award of tenure.
  5. It shall be the responsibility of each constituent faculty, or of each department within the constituent faculty that is organized into departments, to create and promulgate written procedures providing for an appropriate review of each member of the University Faculty (as defined in Article I, Section A, B, and C of the Constitution) within the constituent faculty or department. A copy of said procedures shall be provided to the provost's office. In the case of tenured, tenure track, and non-tenure track full-time members of the University Faculty, the procedures shall provide for an annual review. The chair of the department shall be responsible for implementing the procedures. The chair or appropriate designee of the department shall provide a written summary of the evaluation to each faculty member. In those constituent faculties that do not have a department structure, it shall be the responsibility of the dean or appropriate designee to implement the procedures adopted by the constituent faculty and provide the written summary of the evaluation. A copy of said procedures shall be provided to the provost's office. For tenure track faculty, at the end of the third pretenure year, these evaluations shall be reviewed by an appropriate faculty committee of the constituent faculty, taking into account such additional performance data as have become available during the third year. If the by-laws of a constituent faculty provide for a nine-year pretenure period, a second general review is required at the end of the sixth year. All evaluations and reviews shall address each of the four criteria for promotion and tenure listed in Section I.F.1. The written summary of the evaluations shall be communicated to the faculty member, the chair, and to the dean of the constituent faculty.
  6. Reappointments and promotions should reflect the candidate's documented fulfillment of the qualifications specified in Section I.F.1. and I.F.2. and described in the by-laws of the constituent faculty pursuant to Section I.F.3. above and the growth of his or her corresponding contributions. It should be recognized that the creative and professional service accomplishments of the faculty may take many forms. Thus, the evaluation of a candidate's activities should be based on his or her academic competence, teaching effectiveness, and contributions to attainment of the particular academic objectives of his or her department or school and of the University as a whole.

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7. Tenure is awarded to a faculty member only when the University foresees for him or her a continuing fulfillment of the qualifications presented above. The granting of tenure requires affirmative action by the University, following careful review of the candidate's qualifications. The economic situation of the University and the margin of opportunities for renewal of faculties are also considerations pertinent to the awarding of tenure. Faculty on the tenure track should receive from the dean, or his or her designate, candid and timely information when factors other than those related to professional accomplishment may play a part in tenure consideration.
8. Faculty members with appointments as university administrative officers shall be considered for promotion and tenure on the basis of performance in both capacities. For such faculty members, as for any others, the maintenance of academic competence and teaching effectiveness shall be vital criteria. The distinctive contributions of such candidates to administrative service, however, shall be considered in combination with their research or equivalent creative activities.
9. **The University encourages and values diverse views, thoughts, opinions, experiences, backgrounds, and cultures and strives to provide both the opportunity and a safe environment for diversity to be expressed. It is the policy of the University not to discriminate on the basis of race, religion, age, sex, color, disability, sexual orientation, gender identity, gender expression, national or ethnic origin, political affiliation, or status as a disabled veteran or other veteran or military servicemember protected under federal or state law of the Vietnam era or other veteran and to judge faculty members based solely on legitimate intellectual and professional criteria.**

**G. Pretenure Period**

1. Within Case Western Reserve University the pretenure period may vary with particular academic circumstances among the constituent faculties, but provision for a period beyond six years shall require specific Faculty Senate approval.
2. Each faculty member whose appointment leads to tenure consideration shall be considered for tenure in accordance with Section I, subsections I, J, and K no later than six to nine years after the

date of initial appointment. The by-laws of the constituent faculty shall specify whether the maximum period is six, seven, eight, or nine years; and such period shall apply uniformly within that faculty. If after this period tenure has not been granted, reappointment may normally be made only for one additional year except where the provisions of Section I, H have been adopted.

3. Service at other institutions at the rank of assistant professor or higher may be taken into consideration in establishing the length of a faculty member's pretenure period.
4. Upon written notification by the care-giving parent or parents within one year after each live birth or after each adoption, an extension of one year of the pretenure period shall be granted by the provost.
5. Subject to the limitation in Section I, G, 7 below, individual extensions of the pretenure period of up to three years may be made for exceptionally worthy candidates in the event of unusual constraints in the University, or part or parts thereof, which would prevent tenure award at the end of the normal period. No guarantee is implied, however, that tenure will ultimately be granted. Such an extension shall require tenured faculty or appropriate constituent faculty body recommendation at the departmental or equivalent level, approval by the provost, and concurrence by the faculty member.
6. Subject to the limitation in Section I, G, 7 below, individual extensions of the pretenure period may also be made for the purpose of compensating special earlier circumstances disadvantageous to a candidate's tenure consideration. Such circumstances may include, but are not limited to, serious illness, family emergency, responsibility as a primary care-giver, or extraordinary teaching or administrative assignments. Such an extension shall require tenured faculty or appropriate constituent faculty body consideration at the departmental or equivalent level, approval by the provost, and concurrence by the faculty member.
7. Pretenure extensions may not be used to defer tenure consideration of a faculty member more than three years beyond the normal pretenure period except for provisions stated in Section I, G, 4. The normal pretenure period is determined by the by-laws of the constituent faculty body

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where the faculty member has his or her primary appointment.

*\*approved by the Faculty Senate 4/27/06 and by the Board of Trustees 5/24/06*

## H. Appointments Beyond the Pretenure Period

1. A faculty member whose tenure consideration has not produced tenure award during the pretenure period shall be offered a terminal appointment of one academic year beyond the academic year in which the decision not to grant tenure was made. This rule may be modified by the by-laws of particular constituent faculties to grant such faculty members renewable term appointments not leading to tenure consideration, provided that such appointments are contingent upon full financial support from non-university resources.

### I. Initiation of Recommendations

1. Action concerning a faculty appointment, promotion, or tenure award shall be initiated by the recommendation of a department or, where faculty organization is not departmental, of an appropriate committee of the constituent faculty. (Particular constituent faculties may provide in their by-laws for initiation of a recommendation by an appropriate committee of the constituent faculty, in the absence of a departmental recommendation.) Special faculty appointments may be made by an authorized administrative officer of the University, in accordance with the by-laws of the affected constituent faculty.
2. Departmental recommendations shall be made by the chair (unless he or she is the candidate) after a vote by the eligible members of the department, including those on leave of absence. The chair shall convene a meeting for this purpose, for which notification shall be made sufficiently in advance to allow those unable to attend to vote by written absentee vote or correspondence. On recommendations involving promotion, only faculty of rank equal to or superior to that being considered shall be eligible to vote. On recommendations involving tenure, only faculty with tenure shall vote. An affirmative recommendation shall require a majority of those eligible to vote. In the case of a constituent faculty that has no departmental structure, the dean and the members of the constituent faculty who meet the criteria specified above shall carry out the functions indicated.

3. Affirmative recommendations for faculty appointments and all other recommendations from a department shall be communicated to the dean by the chair in a letter which records the numerical vote and reflects the deliberations of the department, pro and con. Before transmission, this letter shall be made available for inspection by resident faculty members who participated in the vote. If a faculty member believes the letter to express inadequately the deliberations, he or she may send independently to the dean a statement of such opinion, which shall be appended to the chair's letter for higher reviews.
4. If initial consideration is by a constituent faculty committee, its recommendation shall be reported to the dean and at least those tenured members of the constituent faculty (including persons on leave of absence) of rank equal to or higher than that under consideration for the candidate. The recommendation of the latter faculty body shall then be established by vote at a meeting held by the dean for this purpose (with provision for written absentee votes by correspondence, as in Section I, I, 2); an affirmative recommendation shall require a majority vote of those eligible to vote. All affirmative recommendations for faculty appointments and all other recommendations shall be communicated to the dean.

5. a. A non-tenure-track faculty member seeking promotion, a tenured associate professor seeking promotion, or a tenure-track faculty member seeking tenure (with or without promotion) may initiate formal consideration of promotion and/or tenure at the departmental level by submitting a request in writing to the department chair or the dean in a school where there is not a departmental structure. Such self-initiations are entitled to full higher review only at 3-year intervals, as specified below in Section I, J, 1.

b. Self-initiation after receipt of notice of non-renewal of appointment: If a faculty member who has received notice of non-renewal of his or her faculty appointment wishes to initiate formal consideration of his or her promotion and/or tenure, the request in writing to the department chair (or to the dean in a school where there is no departmental structure) must be made within four weeks of receipt of the notice of non-renewal. The requested review process shall begin within six weeks of the request within the academic year, and shall be carried out in accordance with Sections I, I, 1 and I, 2. Such requests shall

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~~have no effect on the terms of the original notice of non-renewal. A decision to award tenure, if approved by higher final review pursuant to Section I, J, 1, shall nullify the notice of non-renewal of appointment. A decision to grant promotion without award of tenure shall have no effect on the notice of non-renewal.~~

~~This procedure of self-initiation may not be used if the notice of non-renewal is the result of a denial of tenure after a mandatory tenure review.~~

~~A faculty member may initiate formal consideration of his or her promotion and/or tenure at the departmental level by submitting such a request in writing to the department chair. If a faculty member who has received notice of non-renewal of his or her faculty appointment wishes to initiate such consideration, the request in writing to his or her department chair must be made within four weeks of receipt of such notice. Requested initiation shall be carried out in accordance with Section I, I, 1 and I, 2 within six weeks of such request during the academic year. This procedure is not intended to provide a basis for appealing a decision on promotion and/or tenure that has gone through normal university process. Such requests shall have no effect on the original notice of non-renewal or on the duration of the terminal appointment. A decision to award tenure, if approved by higher final review pursuant to Section I, J, 1, shall nullify the notice of non-renewal of appointment. A decision to grant promotion without award of tenure shall have no effect on the notice of non-renewal.~~

6. All information kept on file by a department or school which is pertinent to consideration of a faculty appointment, promotion, or tenure award shall be made accessible to those faculty members responsible for the recommendation.
7. Following consideration of a faculty member for promotion or tenure by a department or constituent faculty, the candidate shall be informed promptly by the chair or dean of the [department or constituent faculty of the recommendation](#) established.
8. The above procedure (paragraphs 1 through 7 of Section I, I) may be modified in the by-laws of the constituent faculties subject to the approval of the Faculty Senate, the President, and the Board of Trustees.

## J. Review and Decision

1. The faculty in a particular field has a responsibility to render favorable or unfavorable judgments on the work of its colleagues in an objective manner. All recommendations from departments or constituent faculties regarding mandatory tenure review or regarding promotion, if initiated by the faculty member according to Section I, I, 5, and any affirmative recommendations for initial appointment, promotion, or tenure shall receive full higher review up to and including the president's. [Such review shall extend to the level where authority for decision rests and may be extended beyond an intermediate level at the discretion of the dean of the faculty member's academic unit.](#) Self initiations are entitled to such full review [no more frequently than every three \(3\) years, at 3 year intervals.](#) A tenure review is mandatory if
  - (i) a denial of tenure would result in a terminal appointment or
  - (ii) the candidate has already received one denial of a tenure application which had received full higher review.

\* approved by the Faculty Senate 3/23/06 and by the Board of Trustees 5/24/06
2. In constituent faculties which offer an appointment track not leading to tenure consideration and allow tenure track faculty to move to the non-tenure track, a recommendation for transfer does not constitute a negative tenure recommendation and is not subject to higher review. A recommendation for transfer, however, does not preclude a faculty member from initiating, in a timely manner, a request for formal consideration of tenure pursuant to Section I, I, 5.
3. The dean of a school or college has a responsibility to maintain uniformly high academic standards among the departments and balance among them. The dean responsible for the review of department or constituent faculty recommendations shall perform this duty in consultation with the appropriate standing committee of the constituent faculty.
4. The president has a responsibility to maintain uniformly high academic standards among the schools and colleges and to preserve the general welfare of the University. In cases where the decision of the president is contrary to the recommendation of the originating faculty body,

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the president shall communicate the reasons for the contrary decision promptly to the dean. The dean then shall communicate the reasons promptly to the appropriate standing committee of the constituent faculty, the chair, and the candidate. In cases where the decision of the president is affirmative and the recommendation of the originating faculty body was not affirmative, a member of the originating faculty body representing the majority view is entitled to a meeting with the president before a recommendation is communicated to the Board of Trustees for final action.

**K. Non-Renewal of Term Appointments**

(This provision shall not apply to special University Faculty appointments. Special appointments may be terminated in accordance with the terms of the appointment.)

1. A decision not to reappoint a faculty member beyond his or her current appointment term shall be communicated to him or her in writing by the chair of the department, with copy sent to the dean of the constituent faculty (or by the dean in the case of a school without department structure) in accordance with the following schedule:
  - a. If the faculty member will have continuously served the University for not more than one year at the end of the current appointment term, notice of the intention not to reappoint the faculty member beyond the current appointment term shall be given at least three months prior to the end of the current appointment term.
  - b. If the faculty member will have continuously served the University for more than one year but not more than two years at the end of the current appointment term, notice of the intention not to reappoint the faculty member beyond the current appointment term shall be given at least six months prior to the end of the current appointment term.
  - c. If the faculty member will have continuously served the University for more than two years at the end of the current appointment term, the faculty member shall be given a 12-month terminal appointment. The notice of the intention not to reappoint the faculty member beyond the 12-month terminal appointment shall be given prior to the start of the terminal appointment year. The

terminal appointment may consist of the 12 months prior to the end date of the current appointment term.

- d. The notice of the intention not to reappoint a faculty member shall inform the faculty member of his or her right under Section I, I, 5 to request promotion and/or tenure consideration within four weeks of receipt of such notice, if such a right exists under Section I, I, 5.

e. The notice of the intention not to reappoint a faculty member is adequate if delivered to the faculty member in person or if mailed to the faculty member's latest address on file with the University, return receipt requested, within the time specified in the foregoing schedule.

2. Failure of the University, i.e. the department chair or the dean, to provide notice of the intention not to reappoint a faculty member according to the foregoing schedule shall entitle the faculty member to an additional one year reappointment.
3. For purposes of this section, an academic year appointment shall be considered to expire on June 30.
4. In addition to insufficient academic credentials or performance or grave misconduct or neglect of academic responsibility, the causes for which a term appointment may not be renewed are, among other considerations, changes in academic programs, financial constraints, and tenured/non-tenured faculty ratios.
5. If requested by the faculty member, the University, i.e. the chair or the dean, shall provide written explanation for the non-renewal of a term appointment.
6. An appointment may be terminated during the current term, without the notice set out in K, 1 above, for just cause, as set out in Section I, E, 3.

*\*approved by the Board of Trustees 10/9/73; amended 6/6/85; 4/16/87; 10/14/89; 4/17/90; 5/18/9; amended and approved by the Faculty Senate 2/28/01 and the Board of Trustees 5/12/01.*

*\*\*latest changes approved by the Faculty Senate 3/31/03; by the University Faculty 4/23/03 and by the Board of Trustees 5/19/03.*

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## II. Leaves of Absence\*

### A. Sabbatical Leaves

1. The University is committed to the development of an academic community recognized for its achievements in contributing, transmitting, and utilizing knowledge and ideas. Such a goal requires the continual evaluation and improvement of current activities, as well as the determination of new objectives. Since there exists no single source of knowledge or ideas, it is necessary that stimuli from outside the immediate university environment be received and applied. An essential means for the faculty periodically to enhance its competence and expand its horizons is a sabbatical leave program.
2. A sabbatical leave is a leave of absence from regular academic duties of one year or less with university financial support, if required, where the primary effect of the leave is to enhance the professional development of the faculty member through study or research. Where the primary effect of the leave is service to another institution, such as a leave to take a public service position, the leave is not a sabbatical leave, although some professional self-development may result from the leave.
3. Conditions for the success of a sabbatical leave program are
  - (i) affirmation of its importance to the faculty's goals throughout the University,
  - (ii) the capacity of departments and schools to meet their obligations while members are on leave,
  - (iii) the requirement of a clearly formulated proposal by each applicant for productive use of the leave,
  - (iv) adequate financial support so that leave does not entail individual hardship, and
  - (v) the requirement of a report to the [appropriate department chair or dean head of the department](#) following the leave.
4. A faculty member is normally eligible for consideration for a sabbatical leave during the sixth year following the initial appointment or following the year in which the last sabbatical was taken. The leave, if granted, would normally be taken in the following or seventh year.
5. If a faculty member does not apply for a sabbatical when he or she becomes eligible or if his or her program for use of the leave is not of sufficient merit, he or she may apply in any subsequent year. However, if a sabbatical leave is applied for and deferred because the individual cannot be spared from his or her institutional duties, [the faculty member will be granted the leave as soon as feasible. In this case, the individual may subsequently apply for his/her next sabbatical according to the original time table. the length of time to his or her next sabbatical leave is not extended thereby.](#)
6. The interval between sabbatical leaves is normally not extended by a leave of absence other than sabbatical unless otherwise specified in the letter granting that leave.
7. The length of time since a faculty member has had an opportunity for intensive professional development, whether furnished by this University or by some other institution, is a major factor in decisions concerning the granting of a sabbatical leave. If a faculty member moves here from a position at another institution, his or her previous service should be considered in determining when he or she is eligible for consideration at this institution [for a sabbatical.](#)
8. In order to conserve limited university resources, the applicant for a sabbatical leave shall make efforts to secure support from outside sources, such efforts to include conferring with appropriate administrative officers. Failure to secure such support shall not prevent the leave.
9. Application for a sabbatical leave shall include a specific study proposal. It shall be submitted to the department chair who shall forward it with his or her recommendation to the executive committee of the constituent faculty. The executive committee shall prepare a recommendation concerned with the merits of the study proposal and the applicant's qualifications to undertake it. The application shall then be reviewed by the dean who shall add his or her recommendation to the others for transmission to the president. If the executive committee recommends the leave and the chair and dean indicate that the applicant can be

spared, it is expected that the leave will normally be granted.

10. The president shall decide whether the leave shall be granted and shall fix the level of university support. The University shall normally contribute an amount equal to full salary for half the academic year or half salary for the entire academic year. However, if the faculty member receives support from the University, the total salary received by the faculty member during the sabbatical leave from the University and other sources should not exceed his or her regular university salary. Reimbursement for travel and other expenses incident to the sabbatical leave are not included in the foregoing limitation. Should the faculty member secure funding for the sabbatical leave (i.e., Guggenheim, Fulbright, or other fellowship), the university support shall offset retirement contributions foregone by accepting the funded position. Reimbursement for travel and other expenses incident to the sabbatical leave are not included in the foregoing limitation.
11. If the faculty member is qualified for a leave but the decision is that he or she cannot be spared for a particular semester, the leave should not be denied but postponed and prompt arrangements made for a replacement.
12. All the above conditions for sabbatical leave are based on the premise that the faculty member is tenured. In cases of tenure track (but without tenure), non-tenure track or special faculty, special sabbatical leaves may be recommended as well at the discretion of the dean or in accordance with the by-laws of the constituent faculty in which the faculty member has his or her primary appointment. However, such leaves may not necessarily incur the obligation of university financial support.

#### **B. Other Leaves of Absence**

1. Leaves other than sabbatical leaves may be granted for various purposes, such as a visiting professorship at another institution or service in a governmental or other agency. Normally, such a leave shall be granted for no longer than one year and shall carry no salary contribution from the University. The decision to grant such a leave involves primarily the question of whether the faculty member can be spared from his or her regular duties. Application shall be made to the department chair, who shall forward it to the

dean for further action by the president or his designee.

2. Leaves shall be granted in accordance with the University's for the birth or adoption of a child maternity purposes, to those called to the armed forces, active or reserve, or to alternative services as a conscientious objector, and to those who volunteer for military service in a time of national crisis. Maternity leave shall not exceed three months. A faculty member requesting maternity leave must submit a physician's confirmation of the expected date of delivery and the date the physician recommends that she cease working. Complete Full information about the University's Family and Medical Leave Policy and Other Leaves Policy, as medical leave/maternity leave policy is contained in the specified in the Human Resources Policy Manual personnel policy manual.
3. The president may grant exceptional leaves of absence, such as for recovery from prolonged illness. (Leaves of absence for illness or disability will be compensated as follows: in the first year of service, full salary for one month; in the second and third years of service, full salary for one month and sixty percent of salary for one month; in the fourth and fifth years of service, full salary for two months and sixty percent of salary for one month; in the sixth through tenth years of service, full salary for three months and sixty percent of salary for three months; after ten years of service, full salary for six months.)

#### **C. Status While on Leave**

1. Sabbatical leaves for up to one year shall not interfere with salary increases, promotions, or participation in retirement, group insurance, and other fringe benefits.
2. During a leave other than sabbatical, the question of whether fringe benefits from this University will continue or not should be agreed upon in advance of the leave. If during a leave there has been a discontinuation of any fringe benefits, coverage shall resume immediately upon return.
3. For faculty with tenure track (but without tenure), non-tenure track, and special appointments, the letter granting leave shall specify whether the leave period is to be counted as part of the pretenure or prepromotion period, as the case may be.

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#### D. Obligation to Return

1. A faculty member has an obligation to return for further service following a leave of absence when the circumstances of granting a leave indicate that this is the equitable action, as is usually the case where leave is granted for the faculty member to complete his or her graduate study or where the leave is with full or substantial salary support. The granting of a leave does not alone imply an obligation to return. Normally, a leave as a visiting professor, or for public service, does not imply an obligation to return.
2. [The letter granting the leave shall specify whether there is an obligation to return following leave.](#) ~~The faculty member on leave should, of course,~~ honor a specific agreement to return following the leave unless other arrangements are mutually agreed upon. Even where there is no obligation to return, the faculty member who resigns while on leave should observe the same rules of adequate notice of resignation that he or she would if he or she were not on leave.

*\*approved by the Board of Trustees 10/9/73; approved by the Faculty Senate 3/31/03, approved by the University Faculty 4/23/03, approved by the Board of Trustees 5/19/03*

#### E. Teaching and Service Workload Release

The University wishes to provide eligible faculty members with a period of time in which to adjust to the demands of parenting newly born or adopted children under the age of six. A faculty member who is the primary care-giving parent and whose duties as a faculty member include teaching and service duties shall be granted a workload release from teaching and service duties for one academic semester following each live birth or each adoption of a child under the age of six.

1. This policy applies to tenured and tenure-track faculty whose faculty appointment requires that the faculty member assume teaching or service duties. It does not provide a workload release for a faculty member from research or scholarship duties.
2. The policy is not applicable to faculty who do not have significant research, scholarship or other duties aside from teaching.
3. The policy is not applicable to special faculty.
4. The policy does not apply to faculty members who have been issued a terminal appointment.
5. The request for a workload release of teaching and service duties is to be made, in writing, to the department chair, where the constituent faculty is organized into departments, or to the Dean. The request is forwarded to the Dean for approval. This policy does not preclude the individual negotiation of release time or leave for any faculty member, whether tenured, tenure track or non-tenure track, and under special circumstances not covered by this policy.
6. The teaching and service workload release may be granted for one semester during the academic year following the live birth of a child or adoption of a child under the age of 6. The workload release is ordinarily granted for the academic semester following the faculty member's return to work. If the faculty member comes back to work during an academic semester, the workload release will be granted for the next complete academic semester. Based on the faculty member's particular circumstances, the timing of the request in relation to the progress of the current academic semester, and the needs of the School, the chair and/or dean have the discretion to determine, the appropriate semester for which a teaching and service workload release will be granted. A faculty member may not structure his/her teaching load for an academic year so as to use this work release policy alone to eliminate all teaching and service duties for that academic year. This workload release policy is intended to operate independently, however, from the family, medical, maternity or sabbatical leave policies of the university.
7. The workload release shall be granted without a reduction in pay for the academic semester.
8. The workload release is to be granted to the primary care-giving parent. The primary care-giving parent is the parent principally responsible for the child's care and well-being. If both parents are faculty members eligible under this policy for a teaching and service workload release, the teaching and service workload release may be granted to one faculty member for each live birth or adoption.
9. Faculty on teaching and service workload release will be expected to fulfill their other professional responsibilities during the teaching and service workload release period, including research and scholarship activities and those responsibilities for which the faculty member is uniquely

qualified such as advising doctoral candidates and students involved in projects under the supervision of faculty members.

10. The period of time during which there is a teaching and service workload release does not automatically affect a faculty member's pre-tenure period. A faculty member may be granted an extension of the pre-tenure period under the separate provision governing the Pre-tenure Period, I.G.
11. The period of time during which there is a teaching and service workload release does not in itself constitute a leave of absence under the University's leave of absence policies. However, for a faculty member who is granted family or medical leave and requests intermittent leave requiring a reduced work schedule, that intermittent leave may run concurrently with the period of time in which there is a teaching and service workload release.
12. The chair and/or dean may request documentation from the faculty member that supports that the faculty member meets the eligibility requirements for a teaching and service workload release.

*\* approved by the Faculty Senate 12/19/05 and by the Board of Trustees 2/25/06*

### **III. Non-University Activities of Faculty Members During the Contractual Period\***

- A. Faculty members may extend their professional development by accepting opportunities for outside consulting and similar services in their fields of specialization.
- B. Outside activities must not be permitted to interfere through conflict of interest or otherwise with a faculty member's commitment to the University. (The full text of the University's conflict of interest policy will be found in Chapter 4.)
- C. Each faculty member shall keep his or her department chair or dean informed of the nature and extent of his or her consulting.
- D. All outside activities which represent potential conflicts with a faculty member's normal

university duties require advance approval by his or her department chair or dean.

- E. A faculty member may not hold appointment in another educational institution without written approval in advance by the university administration; request for approval should be directed to the faculty member's department chair or dean.
- F. The rights and obligations of faculty members with respect to patents and copyrights are covered in separate university policy and procedural statements. (See Part Two, Section I of this Chapter.)

*\*approved by the Board of Trustees 10/9/73, approved by the Faculty Senate 3/31/03, approved by the University Faculty 4/23/03, approved by the Board of Trustees 5/19/03*

### **IV. Professional Responsibilities\***

#### **A. Introduction**

1. It is essential that the faculty have high standards of academic conduct to which it will give its allegiance, and fair and effective procedures for dealing with specific actions and conditions harmful to the central purposes of the University. A statement of such standards is set forth below. Violation of these standards deserves disciplinary action when there results a significant impairment of the University's function and may constitute just cause for termination of appointment, as set forth in Part One, Section 1, E., 3. Procedures have been designed to ensure that the disciplining of a faculty member shall occur only after a fair hearing.

#### **B. General Standards**

1. As scholars, faculty members are guided by a conviction of worth and dignity of the advancement of knowledge and recognize the special responsibilities placed upon them. Faculty members' primary responsibility is to seek and to state the truth as they see it. To this end, faculty members devote their energies to developing and improving scholarly competence. Faculty members accept the obligation for critical self-discipline and honest judgment in using, extending, and transmitting knowledge. Faculty members do not allow other interests to compromise their freedom of inquiry.

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2. As teachers, faculty members stimulate and encourage the free pursuit of learning in their students. Faculty members hold before them the best scholarly standards of their discipline. They demonstrate respect for students as individuals and adhere to their proper role as intellectual guides and counselors. Faculty members make every reasonable effort to foster honest academic conduct and to assure that their evaluation of students reflect their true merit. Faculty members respect the confidential nature of the relationship between themselves and students. They avoid any exploitation of students for their private advantage and acknowledge significant assistance from them. They protect their academic freedom. They seek to instill in them a continuing desire to learn throughout their lives.
3. As colleagues, faculty members have obligations that derive from membership in the community of scholars. They respect and defend the academic freedom of their associates, both colleagues and students. In the exchange of criticism and ideas, they acknowledge debts and strive to be objective in their professional judgment of colleagues and students. They accept their share of faculty responsibilities for the governance of the University.
4. As members of the University, faculty members seek above all to be effective teachers and scholars. They help the University achieve its goals and observe the regulations of the University but maintain their right to criticize and seek revision. As set forth in Section III, they determine the amount and character of the occasional work they do outside the University with due regard to their university responsibilities. When considering the interruption or termination of their service, they recognize the effect of their decision upon the program of the University and give due notice of their intentions.
5. As members of the community, faculty members have the rights and obligations of any citizen. They are free to speak or act publicly, although not as spokespersons for the University unless so authorized. When faculty members are speaking or acting as citizens, they have a responsibility for exercising care to avoid giving the impression that they are speaking or acting for the University. As citizens engaged in a profession that depends upon freedom for its health and integrity, faculty members have a particular obligation to promote conditions of

free inquiry and to further public understanding of academic freedom.

### C. Specific Standards

1. Each tenured, tenure track, and non-tenure track member of the University Faculty shall:
  - (i) conduct all professional activities required of him or her, including teaching, research, or other advanced creative activity and service with competence, intellectual honesty, and in accordance with high ethical standards.
  - (ii) carry out all teaching, research, or other advanced creative activity and service obligations as required under the terms of his or her faculty appointment.
  - (iii) continue to develop and improve his or her professional abilities throughout the course of employment with the University.
  - (iv) contribute to the governance of the constituent faculty with which he or she is affiliated and the University in general, **including but not limited to:**
    - (a) developing of academic programs and curricula
    - (b) fulfilling committee assignments
    - (c) advising and mentoring of students and colleagues.
    - (v) devote professional energies to activities that further the goals and the reputation of the University and share in the responsibilities of the faculty to the University, the local community, and society at large.
    - (vi) disclose fully and promptly any commitments or potential conflicts of interest in accordance with the policies of the University.
    - (vii) comply with all applicable laws while on University premises or in connection with University functions or duties; and**
    - (viii) comply with University policies.**
2. Each special member of the University Faculty shall:

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- (i) conduct all professional activities required of him or her, including teaching, research, or other advanced creative activity and/or service with competence, intellectual honesty, and in accordance with high ethical standards.
- (ii) carry out all teaching, research, or other advanced creative activity and service obligations as required under the terms of his or her faculty appointment.
- (iii) disclose fully and promptly any commitments or potential conflicts of interest in accordance with the policies of the University.

(iv) comply with all applicable laws while on University premises or in connection with University functions or duties; and

(v) comply with University policies.

#### D. Hearing Procedures

##### 1. Initiation of Procedures

Preliminary ~~inquiry~~~~investigation into of~~ allegations of conduct violating professional standards or university standards or regulations on the part of a faculty member which may lead to disciplinary action (includes but is not limited to Section I, E, 3, i) may be initiated by the Executive Committee of the Faculty Senate (hereinafter, Executive Committee) or by a representative of the president of the University. In either case, the purpose of initial investigation shall be to make clear to the faculty member the allegations brought against him or her, to hear his or her response, to resolve the issues if possible, and to guide the president in his decision whether to invoke a formal hearing. Discussions with the faculty member at this stage shall be conducted in strict confidence without formal record. If initial investigation is made by the Executive Committee, that body shall transmit its recommendation to the president and the concerned faculty member by letter. It may also be necessary in the case of research misconduct to notify outside funding agencies and journals, according to the University's research misconduct guidelines and federal regulations.

In the case of sexual harassment, there is a separate procedure. (See Chapter 4, General Policies, XIV. Sexual Harassment.)

In the case of research misconduct allegations, there will be an obligation to document the investigation according to applicable federal regulations and according to the "Guidelines Involving Allegations of Research Misconduct" (Chapter 3, Part Two, Section II, of the Faculty Handbook). For this purpose, these allegations shall be reported immediately to the [Research Integrity Officer](#)~~president~~ ~~via the dean of graduate studies and research.~~ (See "Policy for Responding to Allegations of Research Misconduct," Chapter 3, Part Two, Sec. II).

##### 2. Decision for a Formal Hearing

a. The decision to hold a formal hearing of charges against a faculty member shall reside with the president. The president shall notify in writing the faculty member and the Executive Committee of a decision to institute a hearing. This notice shall contain a complete statement of the charges as prepared by the representative of the president, who will represent the University in the hearing.

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b. In an emergency, suspension of the faculty member for the best interests of the University pending the outcome of formal proceedings shall be the prerogative of the president. Suspension shall be with full salary. However, if the suspension is upheld, the faculty member may be required to repay his or her salary from the date of suspension.

(See "Guidelines Involving Allegations of Research Misconduct," Chapter 3, Part Two, Sec. II)

##### 3. Selection of the Hearing Panel

a. The Executive Committee of the Faculty Senate shall appoint two members of the Faculty Senate and one member of the Committee on Faculty Personnel, who need not be a member of the Faculty Senate, to be members of any hearing committee which may be established under the provisions of this Section IV. In order to assure continuity on the panel, these three members shall be appointed to overlapping terms. Furthermore, it shall designate as members of this panel eight to sixteen additional faculty members, not members of the

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Faculty Senate, who have indicated a willingness to serve on hearing committees, if selected. All panel members shall serve two-year terms and be eligible for additional terms without limit. Prior to the beginning of each school year, the Executive Committee shall fill any vacancies among the panel members. An orientation session shall be held each year for all panel members so that they clearly understand all committee procedures.

- b. Within two weeks of notice of the president's decision for institution of a formal hearing, the Executive Committee shall direct the selection of a hearing committee of seven members. The notification from the Executive Committee to the Office of the Secretary of the Faculty Senate shall specify the period within which the selection process shall be completed and the hearing begun. From the panel, the representative of the president shall appoint two members, and the faculty member may then appoint two members to the hearing committee; if the faculty member waives this privilege, the latter two members shall be appointed from the panel by the Executive Committee. These four, together with the three members appointed by the Executive Committee of the Faculty Senate, shall constitute the seven-member hearing committee. The hearing committee shall select a chair from among its members.

#### 4. Conduct of the Hearing

- a. All sessions of the hearing shall be closed unless the representative of the president and the faculty member both agree otherwise. The president and his or her representative may attend all sessions.
- b. If sessions are closed, confidentiality shall be maintained by all parties. Breach of confidentiality by any parties involved shall absolve the others of this obligation.
- c. If sessions are open, publicity about the case by members of the hearing committee, other than necessary simple announcements, shall be avoided until the proceedings have been completed.
- d. The president's representative and the faculty member shall each have the right to an

advisor of his or her choice, chosen from the faculty or administration, excluding the office of the University Attorney Office of General Counsel. Such advisor shall have no right to participate in the proceedings except to advise his or her principal.\*

*\* approved by the Faculty Senate 3/23/06 and the Board of Trustees 4/26/06*

- e. An audio tape recording of each hearing session shall be made by the hearing committee and preserved in the University Archives. Access to the recording shall be limited to the president, the president's representative, the faculty member, and members of the hearing committee. Requests shall be addressed to the chair of the Faculty Senate. Upon approval, the tape shall be made available for review in the Office of the Secretary of the Faculty Senate. To preserve confidentiality, no other taping or copies of these tapes will be permitted.
- f. The chair shall open the hearing by reading the charges against the faculty member, as transmitted by the president's representative.
- g. The faculty member shall then submit a written statement answering the charges. This statement may be read by the faculty member or his or her advisor; otherwise, it shall be read by the chair.
- h. The hearing committee shall grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made.
- i. The faculty member shall be afforded an opportunity to obtain necessary witnesses and documentary or other evidence.
- j. The faculty member and the president's representative shall have the right to cross-examine all witnesses.
- k. The hearing committee shall not be bound by strict rules of legal evidence and should consider any evidence which is of probative value in determining the issues involved. To this end, the committee may call its own witnesses.

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l. The burden of proof that adequate cause exists for disciplining a faculty member shall rest with the University and shall be met only by a preponderance of evidence in the hearing record. The findings of fact shall also be based solely on the hearing record.

m. Procedural decisions, factual findings, conclusions, and recommendations of the hearing committee shall be by majority vote. Statements of majority positions shall be accompanied by any statement of dissent or of separate concurrence.

5. Report of the Hearing Committee

Within ten days after conclusion of the hearing, the hearing committee shall prepare a written report of its findings and conclusions and shall recommend a sanction, if any, to be applied. Copies of this report shall be transmitted to the faculty member, the president, the president's representative, and the chair of the Faculty Senate.

6. Decision by the President

a. The president may impose the sanction, if any, recommended by the hearing committee. If the president does not concur with the recommendation of the hearing committee, he or she shall, within seven days, transmit to it and to the faculty member a written statement of an alternative judgment and the reasons therefore. The hearing committee shall then reconsider the case, taking account of the president's statement and receiving new evidence, if necessary, and shall submit to the president and to the faculty member its second report and recommendation. This response shall be presented within seven days unless the president extends the time. After study of the hearing committee's reconsideration, the president shall make the final judgment. In the event the president finds contrary to the hearing committee's second report and recommendations, the president shall transmit to the faculty member, the hearing committee, and the chair of the Faculty Senate the reasons for such findings.

b. If the president's decision is to dismiss the faculty member, the president shall give consideration to the schedule pertinent to

non-renewal of term appointments, Section I, K.

*\*approved by the Faculty Senate 3/31/03, approved by the University Faculty 4/23/03, approved by the Board of Trustees 5/19/03; amended 4/26/04*

## **V. GRIEVANCE PROCEDURES\***

### **A. Introduction**

The purpose of this Section V is (1) to provide a source of informal confidential advice on faculty personnel matters to members of the faculty, which source can serve the function of informal conciliation where appropriate; and (2) where the informal mechanisms are not successful in resolving the dispute, to provide a mechanism for the formal adjudication of disputes about personnel practice. This adjudication mechanism, described in Section C below, is substantially similar to the procedures described in Section IV, D of the Policies and Procedures. The difference is that procedures under IV, D are the result of a complaint by the faculty or by the administration against an individual faculty member, while procedures under V, C are the result of a complaint by an individual faculty member against the administration, or officer thereof, or against a faculty member or group. Allegations of research misconduct and sexual harassment shall be sent to the appropriate committee or administrative offices as outlined in Section IV, D, 1. The chair of the Faculty Senate shall represent the University Faculty in overseeing the grievance process.

### **B. Informal Advice, Investigation, and Conciliation**

In most cases, a faculty member who desires information about and assistance with personnel decisions which may affect him or her will consult with his or her own colleagues or his or her own dean or department chair. However, there may be cases in which the faculty member needs such advice from a knowledgeable source outside of his or her own faculty. An example of this would be where an adverse recommendation on promotion, tenure, or retention has been made at the departmental level, and the individual believes that the proper procedures were not followed in making the decision. For such cases, the Committee on Faculty Personnel is available for informal advice, investigation, and conciliation on the informal request of any faculty member. In such a case, the chair of the committee

shall maintain as confidential the source and nature of the request and shall not reveal it to the Faculty Senate, to the administration, or to any other group or person without the express consent of the faculty member. [Separate procedures govern matters of sexual harassment and research misconduct. In such matters, reporting is required in Chapter 4, XIV \(Sexual Harassment\) and Chapter 3, Part Two, II \(Policy for Responding to Allegations of Research Misconduct.\)](#) The chair and other committee members will provide information and counsel to the faculty member, investigate the facts, and where appropriate, offer its services as a mediator. The members of the [Faculty Senate](#) Personnel Committee will continue in their role as mediators of disputes and may be provided formal training in the process of mediation. However, the functions of investigation and mediation shall be performed only to the extent they can be without a breach of the obligation of confidentiality.

### C. Formal Grievance Procedures

#### 1. Scope of Procedures

- a. A formal grievance complaint may be filed by any person (hereafter referred to as the complainant) who is a full-time member of the University Faculty, as defined in the "Constitution of the University Faculty."
- b. Such a grievance complaint may be filed against any person (hereafter referred to as the respondent) who is a member of the University Faculty or an officer of the university administration, except the president. A grievance complaint may not be filed against the University Faculty, the Faculty Senate, or the Board of Trustees.
- c. Formal grievances shall be heard in any case in which it is charged that the respondent has taken action which adversely affects the complainant and which action is a violation of the "Constitution of the University Faculty," the by-laws of the Faculty Senate, the by-laws of a constituent faculty or of a department, these policies and procedures, or of accepted norms of university academic personnel practice. Action on promotion and tenure matters is subject to these procedures only if it is charged that the respondent(s) failed to follow prescribed procedures or used an impermissible standard [\(see Section I above\)](#). A hearing committee which considers a grievance involving a promotion or tenure matter may

not in its recommendations substitute its judgment with respect to the merits of the action for the judgment of any other committee, department, or faculty which is part of the normal review process (see [Chapter 3, Part One, I \(Appointments, Reappointments, Resignations, Promotions and Tenure Section I above\)](#)).

- d. Only the chair of the Faculty Senate may communicate with the hearing committee regarding interpretation of the formal grievance procedure as stated in the [Faculty Handbook](#).

#### 2. Complaint

- a. Formal procedures are initiated by filing with the secretary of the Faculty Senate a written grievance complaint addressed to the chair of the Faculty Senate. The complaint shall identify by name the complainant and all respondents, and shall state in detail the action complained of, the norm or rule alleged to have been violated, and the resolution sought. Supporting documents may be presented at this time. If the complainant does not have the names of the respondents, he or she may identify the faculty, committee, or other group, and the chair of the Faculty Senate shall identify the appropriate individuals and designate them by name as respondents. Additional respondents may be added to the grievance proceedings at any stage subject, however, to such requirements of notice as the hearing committee may impose in the interest of fair and expeditious process. Upon receipt of the complaint, the secretary shall send copies thereof to the respondent and the chair of the Faculty Senate. The respondent shall submit a written answer to the complaint and supporting documents within two weeks after delivery of the complaint, unless for good reason the chair of the Faculty Senate grants an extension. Upon receipt of the answer, a copy thereof shall be forwarded by the secretary to the complainant and to the chair of the Faculty Senate.

#### 3. Selection of the Hearing Committee

- a. The panel members provided for in Section IV, D, 3 shall constitute the members for a hearing committee under this section.

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- b. The selection of members of the hearing committee will proceed in the following manner. From the panel the respondent shall first appoint two members and the complainant shall then appoint two members. If either the complainant or the respondent fails to take advantage of his or her privilege or if a group of respondents cannot agree among themselves upon such selection, then the remaining members of the hearing committee shall be appointed from the panel by the chair of the Faculty Senate. The chair of the Faculty Senate may replace hearing committee members if the chair determines that these members are unable to serve or have a conflict of interest. Timeliness of the grievance process is important, and the committee should consider evening and weekend meetings.
- c. Prior to each hearing, the hearing committee will meet to select a chair and review Section 4, "Conduct of the Hearing."
- d. No persons involved in the grievance procedure shall discuss the grievance except as provided herein.

#### 4. Conduct of the Hearing

- a. Copies of the complaint, supporting documents, the respondent's answer, and all other material shall be made available to both parties and the hearing committee by the Office of the Faculty Senate. Notice of the time and place of the hearing shall be sent to all parties. The procedure shall be implemented as expeditiously as possible. Either party may offer additional documentary material during the pendency of the hearing, and such additional material shall be accepted. All additional material to be considered must be submitted through the Office of the Faculty Senate. The committee may also request that additional documentary material be furnished by either party. In either case the additional material shall be made available to the parties. The availability of documents is subject to the rule that the confidentiality of any documents accepted by the University in confidence shall be maintained. Thus, for example, letters written by external referees or reviewers submitted in connection with a promotion and/or tenure action shall not be

disclosed to a complainant if they were received in confidence.

- b. The complainant and respondent shall have the right to be present during the hearing, except for the deliberations of the committee and for the examination of witnesses concerning confidential material.
- c. Unless specifically requested to be absent, the secretary of the Faculty Senate shall be present at the hearing to advise the hearing committee on procedure and to make the audio tape recording. Otherwise, the hearing shall be closed to all except the hearing committee, complainant, respondent, witnesses and advisers. The hearing committee shall maintain the confidentiality of closed proceedings.
- d. The burden of proof (by preponderance of the evidence) shall be borne by the complainant. The hearing committee shall not be bound by the rules of evidence applicable to legal proceedings but may consider any relevant evidence with due regard for its probative value. If witnesses are presented by either party, the other party and the committee shall have the right to cross-question any witness. The hearing committee may call its own witnesses, in which case the parties shall also have the right to cross-question such witnesses. Witnesses shall be present at the hearing only while presenting their testimony. The hearing committee may examine the complainant, the respondent, and all witnesses. However, any member of the Committee on Faculty Personnel who was involved in informal counseling, investigation, or conciliation, pursuant to Section B above, shall not testify as to anything said or done during such informal proceedings without the express consent of the complainant. [Separate procedures govern matters of sexual harassment and research misconduct. In such matters, reporting is required in Chapter 4, XIV \(Sexual Harassment\) and Chapter 3, Part Two, II \(Policy for Responding to Allegations of Research Misconduct.\)](#)
- e. During the pendency of the grievance process and at any stage thereof prior to final resolution, the complainant may withdraw the complaint and terminate the grievance

proceeding, provided, however, that the respondent shall be given notice of the withdrawal and shall consent in writing to the termination. If the respondent does not consent to the termination, then the proceeding shall continue to its final conclusion.

- f. An audio tape recording of each hearing session shall be made by the hearing committee and preserved in the university archives. Access to the recording shall be limited to the complainant, respondent, and members of the hearing committee. Requests shall be addressed to the chair of the Faculty Senate. Upon approval, the tape shall be made available for review in the Office of the Secretary of the Faculty Senate. To preserve confidentiality, no other taping or copies of these tapes will be permitted.
- g. The complainant and respondent each shall have the right to an advisor of his or her choice, chosen from the faculty or administration. Such advisor shall have no right to participate in the proceedings except to advise his or her principal.
- h. The order of the hearing, unless the Chair rules otherwise shall be as follows:
  - 1. Complainant's opening presentation of his or her case, followed by questions by the hearing committee, if any;
  - 2. Respondent's presentation of his or her defense, followed by questions by the hearing committee, if any;
  - 3. Complainant's witnesses;
  - 4. Respondent's witnesses;
  - 5. Rebuttal by complainant;
  - 6. Surrebuttal by respondent.

Normally, witnesses, other than the complainant and respondent shall be present at the hearing only when testifying.

- i. As soon as possible following the hearing, the hearing committee shall make its findings of fact, conclusions and recommendations by majority vote. The findings of fact shall be

based solely on the record adduced at the hearing, and no evidence extrinsic to the record shall be considered.

- j. The chair of the hearing committee shall preside at all sessions and shall make all procedural decisions, subject to being overruled by a majority vote of the committee.

#### 5. Failure to respond to complaint

It is expected that all respondents in grievances cooperate and appear for the hearing.

The deliberate failure or refusal of a respondent to file an answer or the deliberate failure or refusal of the respondent to appear at the hearing after the filing of an answer, shall not prevent the hearing panel from proceeding with the hearing. In case of such default or partial response on the part of the respondent, the hearing committee shall hear the complainant's oral presentation and shall make findings and recommendations based upon the oral and written material presented by the complainant and any oral or written presentation by the respondent.

#### 6. Commencement or pendency of litigation or external administrative proceeding

If either before or after the complainant files a grievance complaint he or she commences litigation or files a complaint with a local, state, or federal agency concerning the matters set forth in the grievance complaint, the pendency of such litigation or administrative proceeding shall not prevent the hearing committee from proceeding with the hearing in due course. The complainant shall not be deprived of the internal grievance process by virtue of such litigation or administrative proceeding.

#### 7. Report of the Hearing Committee

Within two weeks of the end of deliberations, the chair of the hearing committee shall present a written report of its findings of fact, conclusions, and recommendations. If the vote of the committee is not unanimous, the minority may prepare a minority report to be appended to the majority report. Such report shall be forwarded forthwith to the president, the chair of the Faculty Senate, and to the parties.

If the majority finds in favor of the complainant, the report should be considered an interim report. It should ~~permit~~require the respondent to ~~provide comments on the report to reconsider the matter complained of and to report the result of such reconsideration to the chair of the hearing committee~~secretary of the university faculty within ten days from the date of receipt of the committee's interim report. Upon receipt of the respondent's ~~comments~~report of reconsideration of on the -report~~the matter~~, the committee shall incorporate ~~its consideration of such comments~~the result of such reconsideration as an addendum to its report. The report and addendum shall constitute the final report of the hearing committee. When the committee has completed its report and recommendations, the committee may request a meeting with the president to present its report. It is understood that this meeting is intended to provide the president with an opportunity to hear directly from the committee and for the president to ask questions about the report. The president's response to the report will not be made at this meeting. The final report shall forthwith be transmitted to the president, the chair of the Faculty Senate, and to the parties, with the committee's recommendations.

If the majority finds in favor of the respondent, the hearing committee's report shall be considered its final report.

#### 8. Decision by the President

The final resolution of the complaint shall be made by the president, normally within a period of two weeks after receipt of the committee's final report. If the president agrees with the majority report, he or she shall so notify the secretary of the Faculty Senate in writing. The secretary of the Faculty Senate shall transmit the written notification to the chair and members of the hearing committee, the chair of the Faculty Senate, and to the parties.

If the president disagrees with the final report and its recommendations, he or she shall so notify the secretary of the Faculty Senate in writing, setting forth the reasons for disagreement and final resolution of the matter. The secretary of the Faculty Senate shall transmit the written notification to the chair and members of the hearing committee, the chair of the Faculty Senate, and to the parties.

In the alternative, the president may ask the secretary of the Faculty Senate to reconvene the hearing committee to reconsider its final report and recommendations in the light of his or her stated objection thereto. In such case, the hearing committee shall reconvene to reconsider the matter, taking new evidence, if necessary, and shall then transmit to the president, the parties, and the chair of the Faculty Senate the results of its reconsideration.

After review of the hearing committee's reconsidered report and recommendations, the president shall transmit to the secretary of the Faculty Senate a final proposed resolution of the matter; and the secretary shall transmit the same to the parties, the members of the hearing committee, and the chair of the Faculty Senate. At the end of the academic year, members of the Grievance Committee Panels may request a meeting with the president to discuss the grievance process in general terms without reference to the specific cases that have been heard.

*\* approved by the Faculty Senate 12/11/95, 2/8/96, 3/31/03, 4/25/05; approved by the Board of Trustees 3/9/96, 5/12/01; approved by the University Faculty 4/23/03, approved by the Board of Trustees 5/19/03, 7/13/05;*

## **PART TWO**

### ***I. University Policies on Research and Scholarship***

This section contains four university policies governing aspects of university activity in research and scholarship. They are:

- (A) Case Western Reserve University Intellectual Property Policy;
- (B) University Policy on Involvement of Human Participants in Research, Training, Demonstration, and Related Activities;
- (C) University Policy on Authorship and Copyright;
- (D) University Policy on Equipment Transfer; and

(E) Guidelines on Technology Transfer Operations Involving Non-University Personnel on University Premises.

As notes in the texts of the policies themselves, further information about research related matters can be obtained from the Office of Research Administration. Formulating and recommending policy on research and scholarship is a responsibility of the Committee on Research of the Faculty Senate. Its membership includes the dean of graduate studies and research, nine elected faculty members, and three elected student members.

**A. Case Western Reserve University Intellectual Property Policy\***

Preamble

Case Western Reserve University (“the University”) is a privately financed institution devoted to teaching, research, and other scholarly activities benefiting the public. The university faculty, staff, and students, as part of their normal professional activities, conduct research that may be of significant benefit to the public and that merits development of its commercial potential. The University supports such research from its own resources; corporations, foundations, and governmental entities also provide funding for such research (“external funding”). The sponsors of external funding impose a variety of contractual terms on the University in connection with their financial support, including requirements regarding disclosure of matters pertaining to the research supported by external funding and allocation of the rights to inventions and discoveries produced by such research (collectively such inventions and discoveries are referred to herein as “applications”). These contractual terms are especially important in connection with those applications with commercial potential. This policy is therefore intended to provide an equitable and orderly procedure to promote the commercial development of applications while also maintaining compliance with the rights and duties associated with the external funding supporting it. The further purpose of this policy is to contribute to the promotion of a culture and spirit of innovation, creativity, imagination, dynamism, and scholarship that characterizes a research university.

1. Intellectual Property

For purposes of this policy, except as provided below, “intellectual property” includes any research results having potential commercial value produced by university faculty, staff, and students in connection with activities funded by

the University and/or by external funding or using university employees, facilities, or equipment, including but not limited to any inventions, computer programs or other software, data bases, any information or material subject to copyright under the laws of the United States or any other government, trade secrets (as defined in the Ohio Uniform Trade Secrets Act) and know-how related to inventions.

Notwithstanding the foregoing, intellectual property does *not* include books (or including textbooks), articles, novels, poems, psychological and educational tests and measures and educational software, musical works, dramatic works including any accompanying music, pantomimes and choreographic works, pictorial, graphic and sculptural works, motion pictures, audio-visual works, and sound recordings, regardless of whether such exempt materials were produced in connection with the use of university facilities, staff, or equipment. This policy does not apply to educational software.

2. Objectives of the Policy

- a. To promote creative intellectual effort by university faculty, staff, and students for the purposes of developing the commercial value of intellectual property.
- b. To establish principles for recognizing the rights of the creators of intellectual property, the sponsors of external funding, and the University.
- c. To provide means to determine the commercial potential of intellectual property and to promote the commercialization of such intellectual property for the benefit of its creators and of the University.

3. General Provisions

The University owns title to intellectual property except as otherwise contractually provided, whether such contractual provisions are associated with external funding or otherwise. This ownership helps further the University’s academic mission in that it promotes research, the dissemination of knowledge, and the well being of society in general. University ownership of intellectual property expedites commercialization, and ownership is often a condition of external funding; indeed the Bayh-Dole Act requires it for

research funded by federal agencies. The benefits accruing to the University as a result of its ownership of intellectual property benefits its faculty by increasing the resources available to (1) promote the commercialization of intellectual property, thus providing royalties and other benefits to faculty and staff, and (2) advance the long-range development of departmental capabilities and of the University.

The University recognizes that if creative intellectual effort is to be fostered and stimulated, there must be a fair appraisal of rights to intellectual property and a funded mechanism for commercializing intellectual property. In order to recognize the interests of the appropriate parties, it is necessary that faculty, staff, and students who develop intellectual property during their association with the University cooperate with the University in defining and securing the rights to such intellectual property and assist in the University's commercialization efforts as requested by the University. In order to achieve protection and commercialization of intellectual property, the creator shall provide the vice president for research and technology management or his or her representative with a statement disclosing the intellectual property and the circumstances under which the intellectual property was conceived with particular reference to (a) whether the project or program from which the intellectual property derived was financed in whole or in part by a grant or contract, and if so, the name of the funding entity; (b) whether the intellectual property falls within the creator's activities and responsibilities for the University; and (c) whether university funding, equipment, staff, or physical facilities were employed in the process of developing the intellectual property. This should be done as soon as the creator is aware of the novelty and potential value of the intellectual property.

The vice president for research and technology management, or his or her designee, shall make a decision whether or not the University elects to pursue the commercialization of the intellectual property and shall inform the creator or creators of the disposition of said intellectual property within 120 days of receiving all information necessary for a complete disclosure. In cases where the University elects to pursue commercialization of the intellectual property, the Office of Technology Transfer shall incur the costs of protecting (through patenting,

trademark, or copyright as necessary) and marketing the intellectual property to interested potential licensees. The Office of Technology Transfer is obligated to pursue commercialization expeditiously and in consultation with the creator(s). In cases where the University elects not to pursue commercialization of the intellectual property, subject to funding and governmental restrictions and in accordance with Sections 6 and 9 of this policy, said intellectual property shall be released to the creators at their request.

#### 4. Distribution of Rights

- a. Intellectual property may result from research falling generally into one or more of the following categories: (i) supported wholly or in part by university funding or use of university facilities, staff, or equipment; (ii) financed wholly or in part by a government grant or contract; (iii) financed wholly or in part by an industrial corporation or other private source under contract or written agreement; or (iv) conducted wholly on the creator's own time, at the creator's expense, and without use of university facilities, staff, or equipment. Intellectual property arising from research conducted wholly on the inventor's time and at the inventor's expense is not a product of university funding. In all categories other than category (iv), all rights to the intellectual property have automatically been assigned to the University by reason of this policy and the creators, whether staff, students, or faculty, shall be obligated to execute any documents necessary to reflect such assignment of all rights to intellectual property to the University and to participate as necessary and appropriate in the acquisition and protection of proprietary rights to the intellectual property.
- b. The University is obligated to report to the appropriate government agency all intellectual property that has been derived from government funding in whole or in part for definition of the government's rights and interests. This definition can result in: (i) a release of the intellectual property to the University (also see Section 6), with the government retaining a non-exclusive, non-transferable, royalty-free license (i.e. the normal course); or (ii) the government

acquiring and reserving to itself specific rights.

- c. Rights with respect to intellectual property that is financed by industrial corporations or other private sources or that results from joint work with persons or agencies outside the University are governed by the terms of contracts or agreements with the corporation or agency (also see Section 6). The responsible investigator is responsible for informing all persons working on the project of their rights and obligations under such contracts or agreements before initiation of the research.
- d. The University assumes no right or responsibility with respect to intellectual property coming within clause A(iv) above. However, to be sure that there is no disagreement over whether intellectual property falls within that clause and for a creator to secure ownership rights with respect to such intellectual property, the creator must notify the vice president for research and technology management, or his or her designee, of the intended disposition of said intellectual property and request and obtain a waiver of university ownership prior to engaging in any commercialization activities of such intellectual property, including application to obtain property rights through patenting, etc. If the creator and the University mutually agree, the creator may assign the intellectual property to the University and thus avail himself or herself of the commercialization services of the University. (Complete information on these services is available from the vice president for research and technology management.)
- e. This policy applies to post-doctoral scholars, research associates, senior research associates, research and clinical faculty, and visiting faculty and scholars in the same way that it applies to faculty.

#### 5. Disposition of University Rights

Disclosures of intellectual property must be made by creators to the vice president for research and technology management or his or her designee. In all cases where rights to intellectual property reside with the University, the vice president for research and technology management or his or her designee shall decide,

in consultation with the creator(s), whether the intellectual property shall be commercialized by or through the University (or through an external source acting as agent for the University) or offered for release to the creator(s).

When the intellectual property is offered for release to the creator(s), they must inform the vice president for research and technology management, or his or her designee, in writing if they wish to pursue commercialization of the intellectual property on their own. The University shall release the intellectual property to the creator(s), except in cases where one or more of the following conditions prohibits such release: 1) federal regulations governing the intellectual property prohibit such release; 2) release of the intellectual property in question would create an undue liability or risk for the University, due to the potentially dangerous or inappropriate way(s) in which the intellectual property could be used; 3) the intellectual property in question is not yet developed to a point where its commercialization potential can be determined or maximized.

Irrespective of which alternative may be selected, wherever federal funding is involved in the development of the intellectual property, the U.S. government shall generally retain as a minimum the right to a royalty-free, non-exclusive, irrevocable license throughout the world under any patent which may eventually be issued, as well as the right to take back the intellectual property absent adequate commercial development.

#### 6. Maximizing Commercial Potential of Intellectual Property

A viable technology transfer operation generates significant benefit to faculty, staff, and students of a university. In addition to providing a mechanism for transfer of knowledge and discoveries from research to commerce, a technology transfer operation also increases researchers' exposure to commercial entities, thus increasing the potential for sponsored research. A world-class technology transfer operation helps the University to recruit and retain the best research talent. There is direct benefit derived from the license income and start-up companies created by technology transfer activities, in terms of income for creators and their departments, and job creation for the local community.

Start-ups of new technology-based business ventures are among the pathways for transferring university ideas to practical application and public benefit. Faculty participation in such business ventures is premised on the strong affirmation that a faculty member's primary loyalty and attention must be given to the role of teacher and scholar. Properly managed, however, appropriate participation in such ventures can provide a special channel of intellectual satisfaction for faculty members wishing to play a role in seeing their research results converted to practical products. Such ventures also provide the opportunity for financial rewards to participating faculty, their department or school, and the University, through equity and/or royalty participation in the start-up granted in return for license of intellectual property rights.

The vice president for research and technology management, or his or her designee, shall monitor all such start-up arrangements in consultation with the appropriate department chair or division head having administrative oversight over the faculty member involved in a startup, and the management center dean and shall submit a written report annually of his or her findings to the provost. In the event that the interested party (faculty member) involved is a chair or division head, the vice president for research and technology management, or his or her designee, and the management center dean shall select another administrator to consult with the vice president for research and technology management.

To expedite the flow of intellectual property into the stream of commerce and hence ensure maximum benefit to the public, the creators, and the University, the University shall invest in the establishment of its own commercialization capabilities and may also develop relationships with several licensing institutions, economic development centers, and other organizations to realize the commercial benefit of this intellectual property. The establishment of such an organization will be partially funded by proceeds derived from technology transfer activities, as outlined in Section 8.

#### 7. Division of Income

Unless contractually agreed otherwise in advance, the net income received by the University in the

form of royalty payments or other earnings on the intellectual property shall be allocated as specified below. "Net income," as used here, means the income which remains after deducting from gross income the expenses for external marketing, legal, intellectual property protection, travel, litigation, consulting payments, and/or fees due to third parties as a result of their support of research or commercialization of the intellectual property and other services and expenses directly related to the intellectual property in question or commercialization thereof. The deductions shall be reasonable and fair and shall be properly disclosed on a periodic basis to the creator(s) and the relevant department chair and dean. In no event shall payments for research activities be deemed to be part of "net income" for purposes of distribution to creator(s).

Net income up to \$100,000 shall be divided equally between the University and the creator(s). When net income exceeds \$100,000, a fifteen percent (15%) administrative charge to defray the expenses of general operation and services of the Office of Technology Transfer shall be deducted; and the remainder shall be divided equally between the University and the creator(s). Unless otherwise agreed in writing, the University's share of net income shall be divided equally between the University and the school of the creator(s). The allocation of net income between units with the school shall be specified in an agreement signed by the creator(s) and the dean. This allocation remains the same if the creator(s) should leave the University.

If there should be a plurality of creators, that part of the income accruing to the creators shall be distributed as specifically requested in writing by all the creators involved in that disclosure, typically as specified in the original invention disclosure forms used by the inventors in their disclosure to the Office of Technology Transfer. In case of dispute among the creators, the allocation shall be determined by the vice president for research and technology management, who shall make the final decision.

Where intellectual property has been developed with federal grant support, the University and its researchers are bound by the terms of the grant agreement. Those terms supersede this policy to the extent this policy is inconsistent with them. If a grant agreement reduces the amount of earnings that can be shared with a creator, the

percentage of gross proceeds contributed to the operation of the technology transfer office shall also be adjusted on a pro rata basis.

The principle of sharing financial rewards of commercialization with the creators of intellectual property also applies when those rewards are in the form of equity participation in a company. However, it should be noted, because of the complexity of business start-up arrangements, the precise division of benefits will have to be negotiated on a case-by-case basis, particularly when faculty may have a continuing role in the company.

#### 8. Intellectual Property Created by Staff Within Scope of Employment

Intellectual property created by staff within the normal scope of their employment shall be owned by the University by virtue of the employment relationship and therefore shall not be subject to the division of income provisions of this policy. Other intellectual property created by staff is subject to this policy.

#### 9. Release to Creator of University-Owned Intellectual Property

In the event that the University releases intellectual property owned by the University to the creator(s), the University shall retain a perpetual, non-exclusive, non-transferable, world-wide, royalty free license to use said intellectual property for educational and research purposes of the University and to sublicense it for current or future research in conjunction with the results of such research. The University may set requirements concerning such release as are appropriate, in the judgment of the vice president of research and technology management, to (i) provide for protection of the University's interests should creator seek to utilize university facilities thereafter in relation to the released intellectual property, (ii) preserve any rights of the sponsor, and (iii) protect the University from claims or costs arising from the use of the intellectual property after its release. In the case of software, this policy requires access by specified university personnel to the source code, and the University shall require each person to whom a disclosure is made to execute in advance a binding confidentiality agreement in favor of and enforceable by the creator.

#### 10. Individual Agreements

Intellectual property that is the subject of a specific agreement between the University and the creator(s) thereof shall be owned as provided in said agreement. Such agreements by the University and the creators are encouraged. Except where limited by external sponsorship agreements, creators and the University may negotiate individual agreements to govern ownership of intellectual property and any other matters, regardless of the applicability of any other provision hereof. The faculty and the University are encouraged to participate in unique agreements that promote reinvestment of royalties and receivables to further the research and educational activities of the University. In such cases, the University shall match such commitments of the faculty from their portion of the benefits.

#### 11. Student Materials

Regardless of use of university facilities, student coursework or other intellectual property shall belong to the student unless created (a) while student is acting as an employee of the University, (b) while student is engaged in research funded by the University or external funding, or (c) as part of a class or other academic project involving a commercial entity's intellectual property, provided that it is announced at the commencement of the project that students will not have ownership of intellectual property created in conjunction with that project.

If faculty or teaching assistants, acting as advisors, assist in the creation of intellectual property and are therefore co-creators (with the student as creator), they may choose to disclose the invention to the vice president for research and technology management, or his or her designee, and avail themselves of the services of the Office of Technology Transfer in commercializing such inventions.

#### 12. Role of Faculty Committee

In the event there is a disagreement between the creator and the University regarding the interpretation of this policy or its application, the Faculty Committee on Research or its designated resource group shall be consulted for its advice. This group shall consider all of the relevant facts concerning the development and reduction to

practice of the intellectual property and meet with the creator and/or avail itself of appropriate legal assistance if either or both are deemed necessary. The committee shall make its recommendations on the disposition of the case to the president of the University who shall make the final decision.

*\*Adopted by the Faculty Senate 12/2/02; approved by the Board of Trustees 7/23/03*

### **B. University Policy on Human Research Protection\*\***

The promotion of scholarship and the discovery of new knowledge through research are among the major functions of Case Western Reserve University as an institution of higher learning. If this research is to be meaningful and beneficial to humanity, involvement of human subjects as experimental participants is necessary. It is imperative that investigators in all disciplines strive to protect human subjects. University policy and federal regulations demand compliance. Moreover, faculty investigators also have a moral obligation to humankind. The rights of society and the rights of individual subjects must be protected at the same time that investigators are privileged to carry out the mandate to advance knowledge. Research may entail risks to human subjects. Therefore, investigators are obligated to weigh those risks in light of potential benefits to the subject and/or to society.

The Case Human Research Protection Program (Case HRPP) covers all human research conducted by any student, employee, faculty member of Case Western Reserve University (Case), University Hospitals of Cleveland (UHC) and The MetroHealth System (MHS) as part of his or her job responsibilities with that organization, or any human research conducted by an independent contractor of these organizations as part of the organization's contract. In addition, for any human research in which Case acts as the grantee, employees of the Louis Stokes Cleveland Department of Veterans Affairs Medical Center (LSCDVAMC) and the Cleveland Clinic Foundation (CCF) are also responsible for complying with the Case HRPP. Hereafter, these institutions shall be referred to as "member Institutions" under the Case HRPP. The following policy statements enunciate the guidelines under which investigations involving human subjects may be pursued through the Case HRPP:

1. Ethical Principles and Regulatory Mandates  
Human subject research associated with the Case HRPP must be carried out in an ethical manner and in

accordance with The Belmont Report. In addition, investigators must comply with all applicable federal, state and local regulations that related to the protection of human subjects, including any and all Food and Drug Administration regulations (i.e., 21 CFR 50 and 56) and any and all Department of Health and Human Services (DHHS) regulations (i.e., 45 CFR 46). Case maintains a Federalwide Assurance (FWA) with DHHS and applies the requirements of this assurance to all research regardless of funding. Research must not begin until investigators have received review and approval to conduct such research by one of the Institutional Review Boards (IRBs) listed on the Case FWA. The IRB Advisory Committee (IAC) was created to ensure that oversight of human subject research is appropriate and in accordance with institutional, federal and state regulations and local mandates. It is empowered by this policy to create procedures and programs for the Case HRPP to accomplish this mission. The Provost will act as the Institutional Official for the Case HRPP.

### 2. Definitions

"Research" is defined in 45 CFR 46 as "systematic investigation designed to develop or contribute to generalizable knowledge." Therefore, any investigation designed to generate results that could be published (e.g. journal, book, or technical report) or presented at a conference is considered to be research. Research conducted with human subjects for masters or doctoral theses also must receive IRB approval prior to initiation.

"Human subject" is defined in 45 CFR 46 as a "living individual about whom an investigator (whether professional or student) conducting research obtains: data through intervention or interaction with the individual or identifiable private information." See 45 CFR 46 for definitions of "intervention," "interaction," and "private information." Subjects may include, for example, persons involved in behavioral science studies; normal volunteers; donors of services; in-patients and out-patients; living donors of body fluids, organs, and tissues; and members of the general population who may be involved in environmental or epidemiological studies or similar activities.

"Minimal Risk" is defined in federal regulations at 45 CFR 46.102(f) and 21 CFR 56.102(i) as the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily

life or during the performance of routine physical or psychological examinations or tests.

### 3. Informed Consent

An investigator may involve a human subject in research only if the investigator has obtained the informed consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The investigator must provide the information in written documentation, which uses language that is understandable to the subject or representative. The investigator cannot include in the consent process, either orally or in writing, any language through which the subject or representative is made to waive or appear to waive any of the subject's legal rights or which releases the investigator, the sponsor, the institution, or its agents from liability for negligence. Informed consent is a process.

The basic elements of informed consent are as follows:

- 1) statement that study involves research, explanation of purposes of research and expected duration of subject's participation, description of procedures to be followed, and identification of any procedures which are experimental;
- 2) description of risks or discomfort to subject;
- 3) description of benefits to subject or to others;
- 4) disclosure of alternative procedures, if appropriate;
- 5) description of the extent to which confidentiality will be maintained;
- 6) for research involving more than minimal risk, explanation as to whether compensation and medical treatments are available if injury occurs;
- 7) explanation of whom to contact if questions arise about the research, the subject's rights or whom to contact if research related injury occurs; and
- 8) statement that participation is voluntary, that refusal to participate involves no penalty or loss of benefits, and that subject may discontinue at any time.

### 4. Privacy and Confidentiality of Data

University investigators are responsible for protecting the right to privacy of research subjects by safeguarding the confidentiality of all individual data and all data that could in any way be attributed to or used to identify the individuals. Should any investigator be called upon by any individuals or groups, private or public, to reveal research data which would in any way endanger confidentiality, it is his or her obligation to refuse to divulge such information as privileged communication between researcher and subject.

However, the University itself has the right to audit data in order to ensure that human subjects are being adequately protected and that the University is in compliance with the MPA. Those individuals performing the audit are bound by the same rules of confidentiality as the investigator.

### 5. Investigator Non-compliance

All investigators working with human subjects have a responsibility to comply with federal regulations and university policy. Human subject non-compliance is defined as conducting research involving human subjects in a manner that disregards or violates federal regulations governing such research or policies established by the applicable IRB. This can include, but is not limited to, failure to obtain IRB approval for research involving human subjects; inadequate or non-existent procedures for informed consent; inadequate supervision in research involving experimental drugs, devices or procedures; failure to follow the approved version of the protocol; failure to follow recommendations made by the IRB to insure the safety of subjects; failure to report adverse events or proposed protocol changes to the IRB; and continued failure to provide ongoing progress reports.

Per the applicable regulations, IRBs have the authority to review allegations of human subject non-compliance for their particular institution. An IRB may receive allegations in several different ways including, quality assurance auditing reports, subject complaints, internal

allegations, or investigator self-reporting. The process by which an IRB reviews allegations should be determined by the seriousness of the allegations and the probability or occurrence of subject harm. It is important to note that harm to subjects is not limited to physical harm, but also includes social/psychological harms such as breach of confidentiality.

#### 6. Submitting Research to an Institutional IRB under the FWA

IRBs are charged with reviewing and approving protocols to assure the adequate protection of human subjects.

#### 7. Types of Review

**Exempt Review.** All research involving human subjects must be submitted to the appropriate IRB. Determination of exemption must be made by an appropriate IRB. Research may be exempt from IRB review if it meets the criteria described in 45 CFR 46. FDA regulations do not allow for exemptions for research (except in the case of emergency use of test article), therefore research subject to such regulation cannot be exempt. If a determination of exemption is made, investigators are still responsible for ethical conduct of research with human subjects in accordance with The Belmont Report.

**Expedited Review.** Expedited review is a procedure through which certain kinds of research may be reviewed and approved without convening a meeting of the full IRB. DHHS and FDA regulations specifically define when minimal-risk research can receive expedited review by an IRB.

**Full Review.** All research that has not received an exemption or expedited review by the IRB must be reviewed by a convened meeting of the IRB where a quorum of voting members is present.

**Amendments.** Investigators wanting to change a procedure in a study that has already been approved must prepare a written description of the change and the reason for the change. Such changes include the entry or enrollment criteria of subjects, procedures for data collection, or some activity or procedure that must be changed due to an adverse event. The IRB will then reassess the balance of risks to benefits. In light

of the reassessment, the IRB may require the research to be modified or terminated. Any amendment to a study must be reviewed and approved in accordance with IRB policies prior to initiation of the change.

**Adverse Events.** An adverse event is defined as any undesirable and unintended (although not necessarily unexpected) impact on the subject, as a result of therapy or other intervention. Investigators must report in writing to the IRB all adverse events in accordance with the IRB's policies and procedures for reporting such events. If during the course of an investigator's approved research subjects experience adverse effects or new knowledge impacts research design, investigators must inform subjects of any information deemed important by the IRB, which may affect a subject's willingness to continue participation.

#### 8. Faculty Advisors are Responsible for Student Research

A faculty member assigning research projects involving human subjects must take an active role in assuring that the subjects of student research are adequately protected. The University expects that advisors will take an active part in preparing students for the role of researcher, instructing them in the ethical conduct of research and assisting in the preparation of IRB applications. After protocol approval, the advisor should meet regularly with the student in order to review their work and progress. While a student serves as the primary researcher for the protocol, the faculty advisor is ultimately responsible for the protection of human subjects. A faculty member's signature on the application indicates their willingness to comply with all administrative and federal regulations.

#### 9. International Research

All human subject research, regardless of funding, performed outside the United States must obtain appropriate institutional IRB approval according to federal regulations and the FWA. The University recognizes that "the procedures normally followed in the foreign countries may differ from those set forth in this policy." The research, however, may be approved if "the procedures prescribed by the

(foreign) institution afford protections that are at least equivalent to those provided in the FWA.”

*\*approved by the Board of Trustees 3/6/99.*

*\*\*approved by the Faculty Senate 12/19/05 and the Board of Trustees 2/25/06.*

### **C. University Guidelines on Authorship and Policy on Copyright\***

#### **1. Introduction**

The University should concern itself with matters of authorship, author-university relations, and copyright in order to stimulate faculty interest in creating learning materials and ensure that the learner, the author, and the University appropriately share the benefits of the creativity, money, and energy expended.

To fulfill these purposes, the university policy must be highly flexible and must be incorporated in an administrative process responsive to the needs of the learner, the author, and the unit of the University which sponsors and/or produces the learning material.

Within the context of this policy, the "university unit" is defined as a school, department, center, or other academic organization having an assigned budget or supporting grant. "Learning Materials" may be defined as any copyrightable item which contributes to an educational objective, except that in the process of commercialization computer software other than computer aided instructional material, will ordinarily be treated as an invention or discovery and governed by the "University Policy on the Disposition of Inventions and Discoveries" in this section, notwithstanding the possibility that the software may be protected by copyright.

#### **2. University Guidelines on Authorship of Research and Scholarly Publications\*\***

Contributing to knowledge is a core activity of faculty, staff, and students in a research university. Contributions to knowledge are evaluated by the publications produced, regardless of the medium or format. Recognizing that authorship can sometimes be a complex process, Case offers these guidelines for helping faculty, staff, and students navigate authorship issues. For the purposes of these guidelines, publications include any and all articles, abstracts, and/or manuscripts based on original work (research and scholarship)

conducted at Case. These guidelines describe what is expected of faculty, staff, and students in authorship matters and are intended to encourage open communication about authorship issues.

#### **a. Purpose of the Guidelines**

1. Granting agency and public concerns are requiring explicit standards of accountability for all authors of research and scholarly publications.
2. In multiple investigator research and scholarly projects, standards are needed so that contributors can anticipate and understand their rights and responsibilities related to authorship or acknowledgment. However, in very large, multidisciplinary, or multi-institutional projects, following these precise guidelines may not be feasible. Nevertheless, scholars are expected to adhere to the spirit of the guidelines.
3. Not all contributors in any research or scholarship endeavors have the same role, power, or seniority in relationships. It is necessary to clarify the roles of all those involved and to understand each person's rights and obligations in authorship. The potential scholarly contributions of all collaborators, including students, need to be considered in the decisions of authorship.

#### **b. Responsibilities and Criteria for Authorship**

1. Authorship is attributed to persons responsible for the intellectual content of the publication. Only those who have contributed substantially to the conception, execution, or interpretation of the work, such that they are willing and able to take public responsibility for the publication, should be included as authors. Honorary authorship that is listing someone as a co-author in the absence of substantial intellectual contribution is discouraged.
2. All authors must have contributed to developing the manuscript and have read and understood the entire contents of the publication.

3. All authors must be sufficiently familiar with the conduct and at least the general interpretation of the research to accept responsibility for its integrity and credibility.
4. It is the responsibility of the author corresponding with the journal or conference, or his/her proxy, to ensure that authorship decisions conform to Case guidelines and ensure that all authors approve the final submission before publication.
5. All investigators accepting authorship should also accept the responsibility of avoiding unnecessary duplicate journal publication of similar material. Previous publication should be cited in any repeated use of data or theory, and a new publication should meet the criterion of making a new intellectual contribution to the field.
6. In the absence of meeting the above criteria, limited contributions such as provision of standard materials (for example, plasmids, cell lines, tissue, and antibodies), performance of incidental assays or measurements, use of facilities, routine patient care, critical review of the manuscript, providing access to subjects or providing an environment and/or financial support for the research, collecting or analyzing data in a routine format, chairing or advising a dissertation or thesis committee, having an administrative relationship to the research, or contributing to the general intellectual development of one or more authors are insufficient to justify authorship unless the above criteria have also been met but may be recognized by acknowledgment.

For large group projects, it is important at the outset that all members of the research team understand and agree to these principles of authorship. It is also important that procedures for resolving more detailed concerns, such as the timing of presentations or publications, order of authorship, and privilege of presenting results at meetings, be discussed to the extent feasible at the beginning and throughout the work as needed.

7. If disputes or questions concerning authorship have not been successfully resolved among members of a collaboration, these disputes or concerns should be brought, by the individual having a concern, for assistance in resolution to the following administrative officials in this order: a) the department chair, division head, or similar first line of academic management; b) the Dean; and c) the Provost.

However, if these matters involve allegations or evidence of scholarly misconduct or threats of retribution, they must immediately be brought to the attention of the appropriate university official, as per Chapter 3, Part 2, II. Policy for Responding to Allegations of Research misconduct, in the Faculty Handbook. Journals, societies, and conferences may have different authorship policies that are more stringent or more lenient than these guidelines. In such cases, the guidelines expressed in the present document are to be considered as the minimum standards to which all Case faculty, staff, and students should adhere.

\*\*Approved by Board of Trustees 7/13/05

c. Definition

For the purpose of these guidelines, research publications include articles based on original research submitted to journals, abstracts or manuscripts submitted for conference proceedings, or review articles submitted to journals or book publishers.

3. Relationship of the Author and the University

a. Independently-Authored Learning Material

In the absence of a prior agreement between the author and the University, it is assumed that materials developed through the normal activities of faculty (including sabbatical leave) are the property of the faculty member. He or she shall have full ownership of the copyright in the materials which he or she has prepared, and the University shall have no claim or rights to the material.

If, however, material is developed as a consequence of initiatives taken by others (e.g., department head, curriculum committee, etc.), then the university unit shall be entitled to the royalty free right to its internal use for an indefinite period, even though the faculty member may leave the University.

b. University Sponsored Learning Material

Where a university unit sponsors the preparation of copyrightable materials, there is to be a prior written agreement or contract specifying the rights of the author and the rights of the University.

(1) Where in the preparation of instructional material the author makes extensive use of university personnel and/or facilities without personal charge to him or her, the material shall be considered "university sponsored;" and, depending on the extent and cost of the university facilities and personnel, one of the following conditions will apply:

- a. The author shall own the copyright, and the University shall have royalty free rights to internal use of the material for an indefinite period, even though the faculty member may leave the University.
- b. The author shall own the copyright, and the University shall have a royalty free right to internal use of the material and shall be entitled to a percentage of income derived from such material.
- c. The University shall own the copyright, shall have a royalty free right to internal use of the material, and shall pay the author a percentage of income from the material.

(2) In all the above cases the author and/or the university unit shall have the right to limit or restrict the use of university sponsored material, and any such restrictions shall be stated in the contract between the author and the university unit.

(3) When conditions and demand require a revised or subsequent edition, a new contract shall be entered into by the author and the University for revision of the material. If the author declines to revise or fails to complete the revision within the time specified by contract, the university unit may then make arrangements with another person or persons for the revision. In such cases the original author shall retain a partial royalty, as it may be provided for in the original contract or the contract covering the revised edition.

(4) The author and the university unit may mutually agree to market or license the marketing of university sponsored material for audiences external to the University.

(5) Any net income which may derive from externally used copyrighted material generally will be divided between the author (or authors) and the University. However, since circumstances will alter the relative equities of the author and the University, the final terms of division in any particular case are to be negotiated at the time a written agreement is developed.

(6) In the event that the author and the university unit fail to agree on matters of development, production, or marketing of university sponsored learning materials, the author may, upon approval by the University Advisory Committee on Copyright, elect to have the material published or marketed by another organization. In such cases, the University shall receive reasonable compensation, either from the author or from the new agency, for the release of the University's rights to the material.

c. University Commissioned Learning Material

Where the author is "commissioned" by a university unit, i.e. given release time from his normal workload to prepare learning material, the University, unless it otherwise agrees in writing, may:

- (1) Copyright the material in its name and may claim absolute and exclusive title to the material or
- (2) Make any other arrangements concerning copyright and concerning the distribution of income derived from that copyright which it deems best.

4. Role of the University Advisory Committee on Copyright

- a. Advise faculty and administrators of the requirements and procedures for establishing, maintaining, and registering copyright.
- b. Urge faculty to acquire and maintain copyright on all appropriate material which they create independently of the University and, when appropriate, to register the copyright.
- c. Urge the party (author or university unit) entitled to the copyright of university sponsored material promptly to copyright the material; to maintain copyright; and, as soon as appropriate, to register the copyright.
- d. Advise faculty and administrators that the "rights-in-data" clause in federal contracts, which can preclude or complicate copyright, can usually be altered at the request of the author and the University and that the University's Office of Research Administration is available for consultation on this matter.
- e. Hear any disputes which may arise between authors and the University regarding the implementation of this policy. This mechanism shall not preclude use of the grievance provisions of the policies and procedures for faculty members.

5. Implementation of the Policy

- a. Administrative Responsibility

Advice and assistance in obtaining copyright are available to faculty and administrators through the University Office of Research Administration. This office, in taking responsibility for administering the policy, will act as a clearinghouse in referring

questions to appropriate internal or external experts so that definitive answers will be obtained. Assistance will also be given in arranging or finalizing contracts or agreements such as specified under 2,b above.

- b. Disputes

As indicated above (3,e), the University Advisory Committee on Copyright shall review disputes and make recommendations to the Committee on Research as to their settlement.

*\*approved by the Board of Trustees 8/5/74.*

6. University Policy on Custody of Research Data

- a. Rationale and Purpose of the Guidelines

This policy establishes the assurance that research data are appropriately recorded, archived for a reasonable period of time, and available for review under the appropriate circumstances.

- 1. Research support agencies, journals, clinical care sites, or colleagues in the field may need or be legally entitled to review primary research data well after publication or dissemination of results and will hold the University accountable for the availability of these data.
- 2. Researchers involved in multi-investigator projects have rights to access to data gathered by all members of the group.
- 3. The University may be required to review internally the adequacy and integrity of data if findings of university research are called into question.

- b. Contact person

Vice President for Research and Technology Transfer

- c. Applicability and Definitions

This policy shall apply to all Case Western Reserve University faculty, staff, students, and other persons at Case Western Reserve University involved in the design, conduct, or reporting of research at or under the auspices of Case Western Reserve University or with

the use of university resources or facilities. It shall apply to all research projects on which those individuals work, regardless of the source of funding for each project.

Research is defined as "a systematic investigation designed to develop and contribute to generalizable knowledge." Examples of activities that constitute research include any study intended to result in publication or public presentation; any activity resulting in publication or public presentation, even though it involves only review of existing data that were collected with no intent to publish; or any use of an investigational drug or device.

Research data are defined as the material, originally recorded by or for the investigator, commonly accepted in the scientific community as necessary to validate research findings. Research data include but are not limited to laboratory notebooks, as well as any other records that are necessary for the reconstruction and evaluation of reported results of research and the events and processes leading to those results, regardless of the form or the media on which they are recorded.

The principal investigator (PI) is defined as the person responsible for the research or who is the signatory person for sponsored research. Confidential information is specified in the "Case Western Reserve University Intellectual Property Policy" and the "University Policy on the Involvement of Human Participants in Research." For student research involving human subjects, the faculty member who is serving as the responsible investigator with respect to the human subject research is considered the PI.

d. Rights and responsibilities

Both the University and principal investigator (PI) have responsibilities and rights concerning access to, use of, and maintenance of research data. The PI is responsible for maintenance and retention of research data in accord with this policy. Case Western Reserve University's responsibilities with regard to research data include, but are not limited to:

1. Complying with terms of sponsored project agreements;
2. Ensuring the appropriate use of animals, human subjects, recombinant DNA, etiological agents, radioactive materials, and the like;
3. Protecting the rights of faculty, students, postdoctoral scholars, and staff, including, but not limited to, their rights to access data from research in which they participated;
4. Securing intellectual property rights other than copyright;
5. Facilitating the investigation of charges, such as research misconduct or conflict of interest;
6. Responding to legal actions involving the University related to research carried out under its auspices.

e. Collection and retention of research data

Case Western Reserve University must retain research data in sufficient detail and for an adequate period of time to enable appropriate responses to questions about accuracy, authenticity, primacy, and compliance with laws and regulations governing the conduct of the research.

The PI is the custodian of research data, unless agreed on in writing otherwise, and is responsible for the collection, management, and retention of research data. The PI should adopt an orderly system of data organization and should communicate the chosen system to all members of a research group and to the appropriate administrative personnel, where applicable. Particularly for long-term research projects, the PI should establish and maintain procedures for the protection of essential records.

Research data must be archived for not less than three years after the final close-out or publication, whichever occurs last, with original data retained whenever possible. This should include reasonable and prudent practice for off-site back-up of electronic and hard-copy data. Where applicable, appropriate measures to protect confidential information

must be taken. In addition, any of the following circumstances may justify longer periods of retention:

1. Data must be kept for as long as may be necessary to protect any intellectual property resulting from the work;
2. If any charges regarding the research arise, such as allegations of research misconduct or conflict of interest, data must be retained until such charges are fully resolved; and
3. If the data involved constitute part of a student's work toward a degree, they must be retained at least until the degree is awarded or it is clear that the student has abandoned the work.

Beyond the period of retention specified here, the destruction of the research record is at the discretion of the PI and his or her department or laboratory.

To enable the University to meet its responsibilities related to custody of research data (as previously described), the PI is obligated, upon appropriate request, to make all data available for review by the University, its officials or bodies, or the external funding agency or journals, or other external regulatory agencies. This obligation continues even after the PI leaves the University.

In group research projects, the PI is obligated to give co-investigators access to the research data or copies thereof for review and/or use in follow-on research, with proper acknowledgment. Data sharing and custody arrangements by co-investigators or group projects should be determined by the investigators when joining the project and preferably defined in a data use agreement.

Research data will normally be retained in the unit where they are produced. Research data must be retained in such a manner that they are accessible for inspection and copying by authorized representatives of Case Western Reserve University at reasonable times and in a reasonable manner.

- f. Transfer in the event a researcher leaves Case Western Reserve University

When individuals involved in research projects who are not PI's at Case Western Reserve University leave the University, they may take copies of research data for projects on which they have worked. The PI must, however, retain original data, at Case Western Reserve University, unless specific permission to do otherwise is granted by the vice president for research and technology transfer. In the case of student research where the student is not the PI, the individual who is the PI may allow the student to take the original data (except for original informed consent documents if the study involves human subjects) when the student leaves the university as long as the student signs a written agreement (also signed by the PI and the vice president for research and technology management or his/her designee) agreeing to accept custodial responsibilities for the data and that Case Western Reserve University will be given access to the data should that become necessary.

If a PI leaves Case Western Reserve University, custody of the data may be transferred as long as there is a written agreement signed by the vice president for research and technology management or his/her designee and either the PI or (in the event the project is moved to another institution) both the PI and the new institution that guarantees:

1. acceptance of custodial responsibilities for the data, and
2. that Case Western Reserve University be given access to the data should that become necessary.

*Approved by the Board of Trustees 5/18/93. Amended by the Faculty Senate 12/14/00 and approved by the Board of Trustees 6/13/01. Amended by the Faculty Senate 2/27/06 and approved by the Board of Trustees 4/26/06.*

#### **D. University Policy on Equipment Transfer\***

As established by the Board of Trustees, current Case policy on equipment transfer includes the following provisions:

1. Since grants and contracts are awarded to the University and not to individual faculty members, all equipment purchased under outside sponsorship, unless otherwise specified by the

grant or contract, is the property of the University.

2. Equipment purchased under grants and contracts is intended for use in the research and educational programs of the University.
3. When a faculty member leaves the University for another academic position, it is anticipated that equipment which has been purchased will usually continue to be needed in the ongoing research and/or educational activities of the specific department concerned and will therefore remain at the University.
4. Where a faculty member requests that certain specialized items of equipment be made available for transfer to the new institution, exceptions to item 3 above will be considered by the department chair and dean. If in their judgment the equipment in question is of such a nature that it will not be put to good use following the departure of the faculty member, it may be recommended for transfer to the new institution. If the equipment was purchased under a grant or contract, the grant or contract must be reviewed since the grant or contract may prohibit or require transfer of the equipment.
5. Since university property cannot be given to another institution by a dean, department chair, or faculty member, the recommendation of the dean is subject to final approval of the university vice president (acting on behalf of the Board of Trustees). He or she will consider these recommendations when the new institution has formally requested transfer of specific items of equipment.
6. Transfers of equipment for reasons other than the relocation of a faculty member to another academic institution are also subject to the procedures in items 4 and 5 above. The transfer request should include the proposed disposition of the equipment, the reasons why the equipment should be disposed of, the original funding source, and a statement that the terms of any grant or other source do not prohibit such a disposition.

*\*adopted by the Board of Trustees 7/5/67; amended 12/8/69*

#### **E. Guidelines, Technology Transfer Operations Involving Non-University Personnel on University Premises\***

As part of the process of bringing the practical benefits of university research into widespread societal application, it may be necessary that personnel not on the university payroll (outside personnel) from organizations commercializing or otherwise applying these results (sponsoring organizations) be allowed to work temporarily within university facilities to learn and develop needed techniques. However, it is important that such interactions be conducted on a scale, and in a framework of defined guidelines, so that they do not disrupt academic activities and do not allow any use of university or governmental assets to benefit sponsoring organizations without appropriate compensation and only under written agreements.

The following guidelines will govern such interactions at Case Western Reserve University:

1. Faculty involvement with outside personnel must be at a scale and character that it does not cause disruptions in the primary role of university teacher and scholar. If time commitments are to exceed levels compatible with full-time commitment to the university faculty role, these must be designated in written agreements with which the faculty dean and department chair concur.
2. The time period during which outside personnel will be permitted to work within university academic facilities will be strictly limited to a time defined by a specific work plan for technology transfer steps and training. All such arrangements will be reviewed annually by the dean of graduate studies and research and the cognizant department chair and management center dean.
3. In these interactions, there must be no conversion of university facilities, or staff or student effort, to the benefit of the sponsoring organization unless this support is paid for at normal rates and arrangements and expectations are detailed in written agreements with the University. It will be especially important to ensure that student and faculty freedom of choice in determining project and research interests is not limited by the relationship with the sponsoring organization.
4. In determining the terms of the agreements, such sponsoring organizations will be treated no more favorably than we have treated and/or are

prepared to treat federal or other research agencies or any other organizations wanting to work with the University on research and technology transfer projects which conform to our guidelines. A faculty and/or university equity role in the sponsoring organization will not be used as a rationale to provide terms more favorable to it than we would offer to organizations without such linkages to us.

5. There will be no conversion of government, foundation, or any other grant or contract support or results to the benefits of the sponsoring organization unless specified in a written agreement and in compliance with the policies of the agency providing that grant or contract support.
6. All university personnel and/or students whose efforts are covered in whole or in part by agreements with the sponsoring organization will be made aware of that fact and of the obligations and limitations of those agreements.
7. Any charges related to the activities of outside personnel will be paid for from specific accounts set up for those purposes, and funds received from the sponsoring organization for expenses related to agreements with it will be deposited in these accounts. Charges and funds related to the activities of the outside personnel will not be commingled with other university funds or channeled through unspecified discretionary accounts.
8. Outside personnel will carry out activities in university academic laboratory space only for agreed and limited periods in order to facilitate effective technology transfer and scale-up from the academic laboratory to commercial scale activities. While operating in university academic laboratory space they will be treated and regarded as visitors, not university employees. The University will accept no liability related to their presence on university premises. They will comply with such working guidelines as the University, laboratory head, and/or department chair may require to ensure that their presence does not disrupt academic functions and that principles 1-7 above are not violated. They will also comply with all regulatory requirements governing Case research, including those governing laboratory safety, hazardous material use and disposal, and animal care and use.

9. These guidelines will apply equally to all such arrangements with sponsoring organizations, whether or not university faculty or the University itself have equity or other roles in the sponsoring organization or receive any financial rewards from the application of the research results transferred.

*\*Approved by the Board of Trustees 6/25/94.*

## ***II. Policy for Responding to Allegations of Research Misconduct\****

- A. Introduction
1. General Policy

Research misconduct will not be tolerated or accepted at Case Western Reserve University. Scientific integrity and ethics are highly valued and expected from all members of the University community. While ensuring compliance, the University will make all efforts to protect the rights and reputations of all individuals including the respondent and good faith complainant.

The University will educate researchers and staff members on policies and the importance of compliance. Preventative measures are by far the most productive and least damaging to all involved. Our goal is to initiate department-level discussions among students, faculty, and staff researchers to examine the contemporary stresses felt on academic research ethics, and to consider ways to deal with those stresses.

The University's basic procedural approach to handling allegations of research misconduct is to investigate as soon as misconduct is suspected, inform and cooperate with the Office of Research Integrity (ORI), and to follow the proceeding policies.

2. Scope

This policy and the associated procedures apply to all individuals at Case Western Reserve University engaged in any research whether it is supported by the U.S. Public Health Service (PHS) or not. The PHS regulation, 42 Code of Federal Regulations (CFR) Part 93, applies to any research, research-training or research-related grant or cooperative agreement with PHS.

This University policy applies to any person paid by, under the control of, or affiliated with the institution, such as scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at Case Western Reserve University. While the University's authority to investigate, to compel cooperation, and to impose sanctions against those who are not members of the University Community is limited, the University will nonetheless investigate all allegations of misconduct involving research.

The policy and associated procedures will normally be followed when an allegation of possible research misconduct is received by a University official. Particular circumstances in an individual case may dictate variation from the normal procedure, when such variations are deemed to be in the best interests of Case Western Reserve University and PHS. Any change from normal procedures also must ensure fair treatment to the subject of the inquiry or investigation

#### B. Definitions

1. *Allegation* means any written or oral statement or other indication of possible research misconduct made to a University or HHS official where the alleged misconduct occurred within six years of the date the University received the allegation.
2. *Complainant* means a person who makes an allegation of research misconduct.
3. *Conflict of interest* means the real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.
4. *Deciding Official* means the University official who makes final determinations on allegations of research misconduct and any responsive institutional actions. The Deciding Official will not be the same individual as the Research Integrity Officer and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment.
5. *Good-faith allegation* means an allegation made with the honest belief that research misconduct may have occurred. An allegation is not in good faith if it is made with knowing or reckless disregard for the information that would negate the allegation.
6. *Inquiry* means gathering information and initial fact-finding to determine whether an allegation or apparent instance of research misconduct warrants an investigation.
7. *Investigation* means the formal examination and evaluation of all relevant facts to determine whether misconduct has occurred, and, if so, to determine the responsible person and the seriousness of the misconduct.
8. *ORI* means the Office of Research Integrity, the office within the U.S. Department of Health and Human Services (DHHS) that is responsible for the research misconduct and research integrity activities of the U.S. Public Health Service.
9. *PHS* means the U.S. Public Health Service, an operating component of the DHHS.
10. *PHS regulation* means the Public Health Service regulation establishing standards for institutional inquiries and investigations into allegations of research misconduct, which is set forth at 42 CFR Part 93, "Public Health Service Policies on Research Misconduct."
11. *PHS support* means PHS grants, contracts, or cooperative agreements or applications therefore.
12. *Research Integrity Officer* means the University official responsible for assessing allegations of research misconduct and determining whether such allegations warrant inquiries and for overseeing inquiries and investigations.
13. *Research record* means any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of research misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications;

equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

14. *Respondent* means the person against whom an allegation of research misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.
15. *Retaliation* means any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has in good faith made an allegation of research misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation
16. *Research Misconduct* means fabrication, falsification, 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 in opinion.

A finding of research misconduct requires that 1) there be a significant departure from accepted practices of the relevant research community, 2) the misconduct be committed intentionally, knowingly or recklessly; and 3) the allegation be proven by a preponderance of the evidence.

### C. Rights and Responsibilities

#### 1. Research Integrity Officer

The Research Integrity Officer will have primary responsibility for implementation of the procedures set forth in this document. The Research Integrity Officer will be a University official who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of

misconduct, and those who report apparent misconduct in good faith.

The Research Integrity Officer will appoint the inquiry and investigation committees and shall take all reasonable steps to ensure an impartial and unbiased research misconduct proceeding to the maximum extent practicable. He/she shall select those conducting the inquiry or investigation on the basis of scientific expertise that is pertinent to the matter and, prior to selection, shall screen them for any unresolved personal, professional, or financial conflicts of interest with the respondent, complainant, potential witnesses, or others involved in the matter. Any such conflict which a reasonable person would consider to demonstrate potential bias shall disqualify the individual from selection.

To the extent allowed by law, the Research Integrity Officer shall maintain the identity of respondents and complainants securely and confidentially and shall not disclose any identifying information, except to: (1) those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) ORI as it conducts its review of the research misconduct proceeding and any subsequent proceedings.

To the extent allowed by law, any information obtained during the research misconduct proceeding that might identify the subjects of research shall be maintained securely and confidentially and shall not be disclosed, except to those who need to know in order to carry out the research misconduct proceeding.

The Research Integrity Officer will assist inquiry and investigation committees and all University personnel in complying with these procedures and with applicable standards imposed by government or external funding sources. The Research Integrity Officer is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

The Research Integrity Officer will report to ORI as required by regulation and keep ORI apprised of any developments during the course of the inquiry or investigation that may affect current or potential DHHS funding for the

individual(s) under investigation or that PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest.

## 2. Complainant

The complainant will ordinarily have an opportunity to be interviewed by the inquiry and investigation committees, to review portions of the inquiry and investigation reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the Research Integrity Officer has determined that the complainant may be able to provide pertinent information on any portions of the draft report; these portions may be given to the complainant for comment.

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

## 3. Respondent

The respondent will be informed in writing of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting actions. The respondent will also have the opportunity to be interviewed by and present evidence to the inquiry and investigation committees, to review the draft inquiry and investigation reports, and to have the advisor of choice. Advisors, however, may only consult with the respondent. They may not address the committee, ask questions of the committee, or participate in the interviews.

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the respondent is not found to have engaged in research misconduct, he or she has the right to receive institutional assistance in restoring his or her reputation.

## 4. Deciding Official

The Vice President for Research and Technology Management (or in his/her absence the Provost) as the Deciding Official will receive the inquiry and/or investigation report and any written

comments made by the respondent or the complainant on the draft report. The Deciding Official will consult with the Research Integrity Officer or other appropriate officials and will determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions.

## D. General Policies and Principles

### 1. Responsibility to Report Misconduct

All employees or individuals associated with Case Western Reserve University should report observed, suspected, or apparent misconduct in research to the Research Integrity Officer. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may contact the Research Integrity Officer to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of research misconduct, the Research Integrity Officer will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an employee may have discussions and consultations about concerns of possible misconduct with the Research Integrity Officer and will be counseled about appropriate procedures for reporting allegations.

### 2. Protecting the Complainant

The Research Integrity Officer will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The Research Integrity Officer will attempt to ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action.

Employees or those affiliated with the University or a PHS grant should immediately report any alleged or apparent retaliation to the Research Integrity Officer.

Also the University will protect the privacy of those who report misconduct in good faith to the

maximum extent possible. For example, if the complainant requests anonymity, the University will make a reasonable effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The complainant will be advised that if the matter is referred to an investigation committee and the complainant's testimony is required, anonymity may no longer be guaranteed. The University is required to undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

### 3. Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

University employees accused of research misconduct may consult with an advisor (who is not a principal or witness in the case) to seek advice and may bring the advisor to interviews or meetings on the case. However, the advisor may only consult with the respondent. Advisors may not address the committee, ask questions of the committee, or participate in the interview.

### 4. Cooperation with Inquiries and Investigations

University employees and those working on PHS grants will cooperate with the Research Integrity Officer and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the Research Integrity Officer or other University officials on misconduct allegations.

### 5. Preliminary Assessment of Allegations

Promptly after receiving an allegation of research misconduct, defined as a disclosure of possible research misconduct through any means of communication, the Research Integrity Officer shall assess the allegation to determine if: (1) it meets the definition of research misconduct in 42 CFR Section 93.103; (2) it involves either the PHS supported research, applications for PHS research support, or research records specified in

42 CFR Section 93.102(b) or other non-PHS support; and, (3) the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. This assessment will be presented in writing to the Deciding Official for concurrence before the Research Integrity Officer either closes the matter or proceeds to inquiry. All parties will be notified in writing if the matter is closed after the preliminary assessment.

## E. Conducting the Inquiry

### 1. Initiation and Purpose of the Inquiry

Following the preliminary assessment, if the Research Integrity Officer determines that the allegation provides sufficient information to allow specific follow-up and falls under the PHS definition of research misconduct, he or she will initiate the inquiry process whether it involves PHS support or not. In initiating the inquiry, the Research Integrity Officer should identify clearly the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry will be set forth in an inquiry report.

### 2. Sequestration of the Research Records

After determining that an allegation falls within the definition of misconduct in research, the Research Integrity Officer must ensure that all original research records and materials relevant to the allegation are secured. The Research Integrity Officer may consult with ORI for advice and assistance in this regard.

The Research Integrity Officer shall take the following specific steps to obtain, secure, and maintain the research records and evidence pertinent to the research misconduct proceeding:

- 1) **Either before or when the Research Integrity Officer notifies the respondent of the allegation**, the Research Integrity Officer shall

promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory those materials, and sequester them in a secure manner, except in those cases where the research records or evidence 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 substantially equivalent to the evidentiary value of the instruments.

- 2) Where appropriate, give the respondent copies of, or as reasonable, supervised access to the research records.
- 3) Undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding, including at the inquiry and investigation stages, or if new allegations arise, subject to the exception for scientific instruments in (1) above.

### 3. Appointment of the Inquiry Committee

The Research Integrity Officer, in consultation with other University officials as appropriate, will appoint an inquiry committee and committee chair. The inquiry committee should consist of individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. These individuals may be scientists, subject matter experts, administrators, lawyers, or other qualified persons, and they may be from inside or outside the University.

The Research Integrity Officer will notify the respondent of the proposed committee membership in writing. If the respondent submits a written objection to any appointed member of the inquiry committee or expert based on bias or conflict of interest within 5 days, the Research Integrity Officer will determine whether to replace the challenged member or

expert with a qualified substitute.

### 4. Charge to the Committee and the First Meeting

The Research Integrity Officer will prepare a charge for the inquiry committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation as required by the PHS regulation. The purpose is not to determine whether research misconduct definitely occurred or who was responsible.

At the committee's first meeting, the Research Integrity Officer 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 Research Integrity Officer and the [University Attorney's office](#) [Office of General Counsel](#) will be available throughout the inquiry to advise the committee as needed.

### 5. Inquiry Process

The inquiry committee will normally interview the complainant, the respondent and key witnesses as well as review relevant research records and materials. Then the inquiry committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the Research Integrity Officer and the [University Attorney's office](#) [Office of General Counsel](#), the committee members will decide whether there is sufficient evidence of possible research misconduct to recommend further investigation. The scope of the inquiry does not include deciding whether misconduct occurred or conducting exhaustive interviews and analyses.

## F. The Inquiry Report

### 1. Elements of the Inquiry Report

The written inquiry report shall contain the following information: (1) The name and

position of the respondent(s); (2) A description of the allegations of research misconduct; (3) The PHS support involved, including, for example, grant numbers, grant applications, contracts, and publications listing PHS support or other non-PHS support; (4) The basis for recommending that the alleged actions warrant an investigation; and (5) Any comments on the report by the respondent or the complainant. The report should also include recommendations on whether any other actions should be taken if an investigation is not recommended. The [University Attorney's office Office of General Counsel](#) will review the report for legal sufficiency.

## 2. Comments on the Report by the Respondent and the Complainant

The Research Integrity Officer will provide the respondent with a copy of the inquiry report for comment and rebuttal, along with a copy of this policy. The Research Integrity Officer may provide the complainant, if he or she is identifiable; with a summary of the inquiry findings that addresses the complainant's role and opinions in the investigation.

### a. Confidentiality

The Research Integrity Officer may establish reasonable conditions for review to protect the confidentiality of the report.

### b. Receipt of Comments

Within 14 calendar days of receipt of the report or summary, the respondent (and complainant, if applicable) will provide their comments, if any, to the inquiry committee. Any comments that the complainant or respondent submits on the report may become part of the final inquiry report and record. Based on the comments, the inquiry committee may revise the report as appropriate.

## 3. Inquiry Decision and Notification

### a. Decision by Deciding Official

The Research Integrity Officer will transmit the final report and any

comments to the Deciding Official, who will make the determination of whether findings from the inquiry provide sufficient evidence of possible research misconduct to justify conducting an investigation. The inquiry is completed when the Deciding Official makes this determination. The determination is ordinarily made within 60 days of the first meeting of the inquiry committee, unless circumstances warrant a longer period. The reasons for exceeding the 60-day period shall be documented in the inquiry record.

### b. Notification

The Research Integrity Officer will ordinarily notify both the respondent and the complainant in writing of the Deciding Official's decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened. The Research Integrity Officer will also notify all appropriate University officials of the Deciding Official's decision.

## 4. Time Limit for Completing the Inquiry Report

The inquiry committee will normally complete the inquiry and submit its report in writing to the Research Integrity Officer no more than 60 calendar days following its first meeting, unless the Research Integrity Officer approves an extension because circumstances warrant a longer period. If the Research Integrity Officer approves an extension, the reason for the extension will be entered into the records. The respondent also may be notified of the extension.

On or before the date on which the investigation begins (the investigation must begin within 30 calendar days of the institution finding that an investigation is warranted), the Research Integrity Officer shall provide ORI with the written finding by and a copy of the inquiry report containing the information required by 42 CFR Section 93.309(a). Upon a request from ORI he/she shall promptly send them: (1) a copy of 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 for the investigation to consider. Inquiry reports of allegations that do not involve PHS support in accordance with the definition of research misconduct will not be forwarded to ORI, but will otherwise be in accordance with this policy.

## G. Conducting the Investigation

### 1. Purpose of the Investigation

The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged 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. The findings of the investigation will be set forth in an investigation report.

### 2. Sequestration of the Research Records

The Research Integrity Officer will immediately sequester any additional pertinent research records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the respondent is notified that an investigation has begun. The need for additional sequestration of records may occur for any number of reasons, including the University'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.

### 3. Appointment of the Investigation Committee

The Research Integrity Officer, in consultation with other University officials as appropriate, will appoint an investigation committee and the committee chair as soon as practicable after the

respondent has been notified that an investigation is planned. The investigation committee should consist of at least three individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegations, interview the principals and key witnesses, and conduct the investigation. These individuals may be scientists, administrators, subject matter experts, lawyers, or other qualified persons, and they may be from inside or outside the University. Individuals appointed to the investigation committee may also have served on the inquiry committee.

The Research Integrity Officer will notify the respondent of the proposed committee membership. If the respondent submits a written objection to any appointed member of the investigation committee, the Research Integrity Officer will determine whether to replace the challenged member with a qualified substitute.

### 4. Charge to the Committee and the First Meeting

#### a. Charge to the Committee

The Research Integrity Officer 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, defines research misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the Research Integrity Officer, who will determine whether it is necessary to notify the respondent of the new subject matter or to provide

notice to additional respondents.

b. The First Meeting

The Research Integrity Officer, with the ~~University Attorney's office~~ Office of General Counsel, 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 these instructions and, where PHS funding is involved, the PHS regulation.

5. Investigation Process

In conducting all investigations, the University shall: (1) 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 the allegations; (2) 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 investigation; (3) Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion; and (4) Otherwise comply with the requirements for conducting an investigation in 42 CFR Section 93.310

The respondent will be notified sufficiently in advance of the scheduling of his/her interview so that the respondent may prepare for the interview and arrange for the attendance of an advisor, if the respondent wishes.

**H. The Investigation Report**

1. Elements of the Investigation Report

The Research Integrity Officer, in conjunction with the Investigation Committee, shall prepare the draft and final institutional investigation reports in writing and provide the draft report for comment as provided elsewhere in these policies and procedures and 42 CFR Section 93.312. The final investigation report shall:

- (1) Describe the nature of the allegations of research misconduct;
- (2) Describe and document the PHS support (if applicable), including, for example any grant numbers, grant applications, contracts, and publications listing PHS support;
- (3) Describe the specific allegations of research misconduct considered in the investigation;
- (4) Include the institutional policies and procedures under which the investigation was conducted, if not already provided to ORI;
- (5) Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody, but not reviewed. **The report should also describe any relevant records and evidence not taken into custody and explain why.**
- (6) Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and if misconduct was found, (i) identify it as falsification, fabrication, or plagiarism and whether it was intentional, knowing, or in reckless disregard, (ii) summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent's explanations, (iii) identify the specific PHS support or other support; (iv) identify any publications that need correction or retraction; (v) identify the person(s) responsible for the misconduct, and (vi) list any current support or known applications or proposals for support that the respondent(s) has pending with non-PHS Federal agencies; and
- (7) Include and consider any comments made by the respondent and complainant on the draft

investigation report.

The University shall maintain and provide to ORI upon request all relevant research records and records of its research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.

## 2. Comments on the Draft Report

### a. Respondent

The Research Integrity Officer will provide the respondent with a copy of the draft investigation report, and concurrently, a copy of, or supervised access to, the evidence on which the report is based and notify the respondent that any comments must be submitted within 30 days of the date on which he/she received the draft report. The respondent's comments will be attached to the final report and are considered in the final investigation report.

### b. Complainant

The Research Integrity Officer will provide the complainant; if he or she is identifiable, with those portions of the draft investigation report that address the complainant's role and opinions in the investigation. The report may be modified, as appropriate, based on the complainant's comments.

### c. Review by University Attorney's Office

The draft investigation report will be transmitted to the University Attorney's office for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

### d. Confidentiality

In distributing the draft report, or portions thereof, to the respondent and complainant, the Research Integrity Officer 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 Research Integrity Officer may request the recipient to sign a confidentiality statement or to come to his or her office to review the report.

## 3. University Review and Decision

Based on a preponderance of the evidence, the Deciding Official will make the final determination whether to accept the investigation report, its findings, and the recommended University actions. A preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not. If this determination varies from that of the investigation committee, the Deciding Official will explain in detail the basis for rendering a decision different from that of the investigation committee in the institution's letter transmitting the report to ORI. The Deciding Official's explanation should be consistent with the PHS definition of research misconduct, the University's policies and procedures, and the evidence reviewed and analyzed by the investigation committee. The Deciding Official may also return the report to the investigation committee with a request for further fact-finding or analysis. The Deciding Official's determination, together with the investigation committee's report, constitutes the final investigation report for purposes of ORI review.

When a final decision on the case has been reached, the Research Integrity Officer will notify both the respondent and the complainant in writing of the decision. In addition, the Deciding Official 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 Research Integrity Officer is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

## 4. Transmittal of the Final Investigation Report

After comments have been received and the

necessary changes have been made to the draft report, the investigation committee should transmit the final report with attachments, including the respondent's and complainant's comments, to the Deciding Official, through the Research Integrity Officer.

5. Time Limit for Completing the Investigation Report

An investigation should ordinarily be completed within 120 days of its initiation, with the initiation ordinarily beginning with the first meeting of the investigation committee. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the Deciding Official for approval, and submitting the report to the ORI. If the University will not be able to complete the investigation in 120 days, it will submit to ORI a written request for an extension and an explanation for the need for an extension.

**I. Requirements for Reporting to ORI**

1. The University shall promptly provide to ORI after the investigation: (1) A copy of the investigation report, all attachments, and any appeals; (2) A statement of whether the institution found research misconduct and, if so, who committed it; (3) A statement of whether the institution accepts the findings in the investigation report; and (4) A description of any pending or completed administrative actions against the respondent. (*Only actions involving respondents who receive funding from PHS will be reported to ORI.*)
2. If the University plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the PHS regulation, the Research Integrity Officer will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.
3. If the University determines that it will not be able to complete the investigation in 120 days, the Research Integrity Officer will submit to ORI a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken.

If the request is granted, the Research Integrity Officer will file periodic progress reports as requested by the ORI.

4. When the case involves PHS funds, the University cannot accept an admission of research misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI.
5. At any time during a research misconduct proceeding, the University shall notify ORI immediately if it has reason to believe that any of the following conditions exist:
  - (1) Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
  - (2) HHS resources or interests are threatened.
  - (3) Research activities should be suspended.
  - (4) There is a reasonable indication of violations of civil or criminal law.
  - (5) Federal action is required to protect the interests of those involved in the research misconduct proceeding.
  - (6) The University believes the research misconduct proceeding may be made public prematurely, so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.
  - (7) The University believes the research community or public should be informed.

**J. Institutional Administrative Actions**

The University will cooperate with and assist ORI and HHS, as needed, to carry out any administrative actions HHS may impose as a result of a final finding of research misconduct by HHS.

The University will also take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.

If the Deciding Official determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken,

after consultation with the Research Integrity Officer. The actions may include:

- withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found.
- removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
- restitution of funds as appropriate.

The University will report to ORI any proposed settlements, admissions of research misconduct, or institutional findings of misconduct that arise at any stage of a misconduct proceeding, including the allegation and inquiry stages.

#### **K. Other Considerations**

##### **1. Termination of University Employment or Resignation Prior to Completing Inquiry or Investigation**

The termination of the respondent's employment with the University, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, ordinarily will not preclude or terminate the misconduct procedures.

If the respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation ordinarily will proceed. If the respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

##### **2. Restoration of the Respondent's Reputation**

If the University finds no misconduct or that the allegation of misconduct cannot be substantiated and ORI concurs, after consulting with the

respondent, the Research Integrity Officer will undertake reasonable efforts to restore the respondent's reputation. Depending on the particular circumstances, the Research Integrity Officer should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of research misconduct was previously publicized, or expunging all reference to the research misconduct allegation from the respondent's personnel file.

##### **3. Protection of the Complainant and Others**

Regardless of whether the University or ORI determines that research misconduct occurred, the Research Integrity Officer will undertake reasonable efforts to protect complainants who made allegations of research misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the Research Integrity Officer will determine, after consulting with the complainant, what steps, if any, are needed to protect or restore the position or reputation of the complainant. The Research Integrity Officer will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the complainant.

##### **4. Allegations Not Made in Good Faith**

If relevant, the Inquiry or Investigation Committee will determine whether the complainant's allegations of research misconduct were not made in good faith and will include such determination in its respective report. If an allegation was not made in good faith, the Deciding Official will determine whether any administrative action should be taken against the complainant.

##### **5. Interim Administrative Actions**

At any time during a research misconduct proceeding, the University shall take appropriate interim actions to protect public health, federal funds and equipment, and the integrity of the PHS supported research process. The necessary actions will vary according to the circumstances of each case, but examples of actions that may be necessary include delaying the publication of research results, providing for closer supervision

of one or more researchers, requiring approvals for actions relating to the research that did not previously require approval, auditing pertinent records, or taking steps to contact other institutions that may be affected by an allegation of research misconduct.

#### **L. Record Retention**

After completion of a case and all ensuing related actions, the Research Integrity Officer will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the Research Integrity Officer or committees.

The University shall cooperate fully and on a continuing basis with ORI during its oversight reviews of this institution and its research misconduct proceedings and during the process under which the respondent may contest ORI findings of research misconduct and proposed HHS administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all witnesses, research records, and other evidence under the University's control or custody, or in the possession of, or accessible to, all persons that are subject to the University's authority.

The University shall maintain all records of the research misconduct proceeding, as defined in 42 CFR Section 93.317(a), for 7 years after completion of the proceeding, or any ORI or HHS proceeding under Subparts D and E of 42 CFR Part 93, whichever is later, unless the University has transferred custody of the records and evidence to HHS, or ORI has advised the University that it no longer need to retain the records.

*\*approved by the Faculty Senate 12/19/05 and the Board of Trustees 2/25/06.*

#### **III. Remuneration for Additional Services\***

Service in the teaching programs, research programs, and administrative activities of the University is regarded as within the faculty member's obligation and is compensated for by regular salary. This applies to full-time faculty members on twelve-month appointments as well as to full-time faculty members on academic year (nine months) appointments, except that for additional services faculty members on nine-month appointments may

receive additional remuneration up to but not exceeding 3/9ths of their regular academic year salary, under the following conditions:

- A. Upon approval of the dean, compensation for summer activity not to exceed 3/9ths of the faculty member's regular academic year salary may be received.
- B. When a school, department, and other unit of the University needs extensive service from a faculty member who holds a primary appointment in another unit of the University, negotiation should be through or with the concurrence of the department chair or dean of the division in which the primary appointment is held; and budget transfers, which do not result in additional remuneration, may be arranged.
- C. A full-time faculty member engaged in a non-credit program which directly generates outside income for the University may be paid extra compensation from the balance of income remaining, if any, after other program expenses have been paid. This extra compensation, however, may not exceed five percent of the faculty member's total annual compensation from the University.

*\*Office of the President 6/1/69; amended 10/11/73, 7/2/84, 2/3/91, 4/25/05; approved by the Board of Trustees 7/13/05*

#### **IV. Modified Employment Policy for Full-Time University Faculty\***

- A. After age 55 and after ten years of service as full-time faculty at this University, a member of the University Faculty has the option to elect half-time employment for the rest of his or her career with the University. Reductions to other than half-time including less than half-time may still be considered on a case-by-case basis and are outside the scope of this option. Also outside the scope of this option are all reductions in time of faculty members of academic departments supported or assisted, directly or indirectly, by income from the professional service activities of its faculty; such reductions shall be subject to the approval of the dean of the school to which the faculty member belongs on a case-by-case basis.
- B. Half-time obligation to the University is defined to be half the normal work load of teaching, research, and/or service of faculty members with the same type of appointment in the same

constituent faculty. The nature and extent and scheduling of the load should be settled between the individual and the chair or dean before the part-time service begins.

- C. The salary to be paid is half of the normal full-time salary of faculty members with the same type of appointment in the same constituent faculty. The faculty member would be eligible for raises.
- D. Such a decision once made is irreversible. Once a faculty member has opted for the plan, he or she may not return to full-time employment.
- E. Benefits that are not proportional to salary, such as health insurance, are continued as if the faculty member were full time.
- F. The University will continue to make contributions to the retirement plan based on the salary actually paid.
- G. Concerning faculty status, the individual remains a member of the University Faculty and retains the same voting and participation rights as he or she had prior to electing modified employment under this policy, [including eligibility for emeritus appointment if the qualifications for emeritus appointment specified in Chapter 3, Section VI of this Handbook have been met.](#)
- H. The University places no specific restrictions on employment outside of the University except for the conflict of interest standards already in place.
- I. Sabbatical leaves, if granted, would be on pay levels proportional to the actual amount being paid.

*\*approved by the Board of Trustees 12/7/84; approved by the Faculty Senate 3/31/03, approved by the University Faculty 4/23/03, approved by the Board of Trustees 5/19/03*

## V. Retirement\*

- A. ~~Normal retirement age for all faculty members shall be 65 years; thus, normal retirement shall occur at the end of the fiscal year (July 1–June 30) in which the faculty member reaches this age.~~
- B. ~~Retirees from full-time positions in the University are eligible to participate in the University's post-retirement programs. Detailed~~

information is available from the Benefits Administration Office.

*\*Original retirement policies adopted as part of Policies and Procedures for Members of the Faculty, 10/9/73; amended by the Board of Trustees 12/7/79.*

## VI. Emeritus Appointment\*

Emeritus appointment is bestowed as an honor upon retired full-time faculty in recognition of meritorious service to Case Western Reserve University. It is contingent on initiation by departmental faculty eligible to vote and on support and approval of the constituent faculty appointment, promotion and tenure committee, and dean, as well as the president and University Board of Trustees. [Certain key university administrators may be recommended for emeritus appointment by the president to the Board of Trustees.](#) It is expected that candidates for emeritus appointment will meet the following conditions:

- Meritorious contributions to the school and to the University.
- Continuous service of at least ten years as a full-time faculty member.
- Minimum retirement age of 60. In exceptional cases, a faculty member who retires early because of disability may be considered for emeritus appointment at an earlier age, provided that the other conditions have been met.
- Retirement from full-time active service at Case Western Reserve University.

If a faculty member resigns and immediately accepts a full-time academic position at another university, the emeritus appointment would not be made. At the point, however, where affiliation at another university ceases and the faculty member wishes to retain Case Western Reserve as his or her primary academic identity, an emeritus appointment may be considered on initiation of the candidate's former department, provided that the other conditions have been met. With the support of the department and/or school, these and other unusual cases will be considered and a determination made by joint action of the chair of the Faculty Senate and the provost of the University. Their recommendation, if affirmative, will be transmitted for action by the

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president to the Board of Trustees. [A faculty member may not be promoted at the time of emeritus appointment.](#)

Emeritus appointment is not [intended to be routine and is not](#) accorded to part-time faculty members, [and is not intended to be routine.](#) This restriction shall not apply to someone who has chosen a modified (50% or greater) appointment after satisfying the ten-year service requirement [or to volunteer faculty in the School of Medicine. Clinical faculty in the School of Medicine, however, are eligible to be considered for emeritus status.](#) The privilege of emeritus appointment implies a collegial relationship between the awardee and the University to the mutual benefit of both.

[A faculty member may not be promoted at the time of emeritus appointment.](#)

Once awarded, an emeritus appointment is for life and may not be withdrawn.

In addition to the privileges associated with retirement, emeritus faculty are generally awarded other perquisites, some of which include free parking when space is available; personal tuition waiver privileges; use of libraries and some other facilities; listing in the university directory; invitation to various faculty functions; etc. Office space may be provided depending on the needs of the department or school.

[Certain key university administrators may be recommended for emeritus appointment by the president to the Board of Trustees.](#)

*\*approved by the Board of Trustees 9/22/87.*

### ***VII. Endowed Professorships and other Chairs\****

A senior, endowed chair for a tenured full professor is designed to recognize eminence in a given field, primarily through demonstrated scholarship and excellence in teaching. When the Board of Trustees is advised to bestow a chair, it is on the premise that the individual has earned a national reputation for scholarly distinction in his or her field and shares that expertise in his or her teaching. Such a professorship signifies to the external as well as internal academic community the highest standards for scholarship and teaching the school has to offer.

There are occasions when appointments to senior professional chairs are co-terminous with administrative appointments. The criterion of scholarship continues to hold in such cases but may be interpreted more flexibly. [Appointments to endowed junior chairs at assistant professor and associate professor levels are of a specified duration and endowed chairs for associate professors are time limited at the full professor level may be of a specified duration.](#) These appointments are intended to recognize exceptional faculty potential and merit and to add special strength to particular areas of teaching and research.

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Appointments to visiting chairs may be at any faculty rank and do not lead to tenure consideration.

*\*Office of the President 11/7/86; amended 2/18/87.*

### ***VIII. Guidelines for Selecting Deans\****

These guidelines are intended to apply to the advising of the president in the matter of the selection of deans at the college level as well as at the constituent faculty level.

- A. A search advisory committee will be appointed by the president as soon as possible following the announced vacancy of a deanship. Members of the committee will be chosen with the aid of a slate prepared by the appropriate constituent faculty or faculties. The majority of the committee will be voting members of the University Faculty. The committee will elect a chair from among its members.
- B. Each constituent faculty will establish procedures for the nomination of members to the search advisory committee and for the manner in which its views on candidates will be conveyed to this committee.
- C. The university administration will provide a secretariat for the committee. Correspondence will be carried out by the chair through the secretariat. Appropriate biographical information will be kept in university administrative offices and will be regularly available to members of the search advisory committee.
- D. The committee will provide the president with a slate or slates of suitable candidates from which

the selection normally will be made. Where a candidate mutually acceptable to the president and the search advisory committee cannot be identified, the president, in consultation with the Executive Committee of the Faculty Senate, may select a candidate outside the slate(s) provided by the search advisory committee.

- E. In the event an interim or acting dean must be appointed, such appointment will be made by the president in consultation with the Executive Committee, or its equivalent, of that constituent faculty.

*\*approved by the Board of Trustees 3/18/87.*

### ***IX. Guidelines for Selecting Department Chairs\****

- A. The selection process for a department chair will be initiated immediately upon recognition of a vacancy of that position.
- B. The department, or a search committee appointed by the dean with adequate representation from that department, will provide the dean with a candidate or slate of candidates from which the selection normally will be made. The aim of the search process is to identify a candidate who is acceptable to the president, the dean, and the department faculty.
- C. In the event that an acting or interim chair must be appointed, such appointment will be recommended to the president by the dean after consultation with members of that department and the executive committee, or its equivalent, of that constituent faculty.
- D. All searches and hiring of department chairs will be conducted in strict accordance with the university policy governing affirmative action.

*\*approved by the Board of Trustees 11/15/88.*

### ***X. Guidelines for Awarding Honorary Degrees\****

An honorary degree is a means of recognizing excellence in any valued aspect of human endeavor, including the realm of scholarship, public service, and the performing arts. The conferring of an honorary degree is the University's way of

recognizing those persons who have exemplified in their work the highest ideals and standards. By awarding such degrees to persons outside the University, an interest in and connection with the larger community is maintained.

Nominations are to be submitted to a faculty committee appointed by the president after consultation with the Nominating Committee of the Faculty Senate. The faculty committee, chaired by the provost of the University, will have representation from each constituent faculty and will include the University Marshal, *ex officio*\*\*. Between five and ten nominations will be recommended by the faculty committee to the Executive Committee of the Faculty Senate. Those approved by the Executive Committee, acting for the University Faculty, will be transmitted to the president for submission to the Board of Trustees. The candidates approved by the Board of Trustees will be invited by the president to come to Case Western Reserve University to receive an honorary degree.

The faculty committee will begin its work early and will be ready to receive nominations from individuals by October 1. The recommendations will be submitted to the Executive Committee of the Faculty Senate no later than November 20.

A nomination should include a brief statement detailing accomplishments of the candidate that are especially worthy of recognition and giving reasons why the University should confer the degree.

Although not always possible, if the Commencement Speaker is to be awarded an honorary degree, it is hoped that selection of the speaker will occur early enough to allow the process to proceed on schedule.

Restrictions include:

- A. An honorary degree will not be conferred on a person who is currently a member of the faculty, the staff, or the Board of Trustees.
- B. An honorary degree will be awarded only at the commencement or other major university convocation.
- C. The number of honorary degrees awarded on any one occasion will be limited to no more than six.

*\*approved by the Board of Trustees 8/10/88.*

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*\*\* approved by the Board of Trustees 8/10/88, revised by the Faculty Senate 3/23/06 and approved by the Board of Trustees 4/26/06*

### ***XI. University Medal\****

The University Medal is Case Western Reserve University's highest honor in recognition of leadership, dedication, and service to the University, to higher education, and to society. The University's Board of Trustees established the medal in 1971. It honors persons for a variety of reasons and has usually been awarded to a person very close to or a part of the university "family." A committee of university faculty, trustees, and the president select the recipient. The sterling silver medal bears the university seal on one side and the recipient's name and the date the medal is awarded on the other.

*\*approved by the Board of Trustees 8/10/88.*

**Chapter 4**  
**General University Policies and Procedures**

## **INTRODUCTION**

This chapter includes policies and procedures that apply to all members of the university community: administrators, staff, students, as well as faculty.

### **I. Rules of Conduct\***

The following general rules, applicable to all, are designed to preserve freedom of expression and association on the Case Western Reserve University campus and to reaffirm the civil, personal, and property rights of the University and its members. University members who violate one or more of these rules will be subject to internal disciplinary action.

Conduct which is subject to university disciplinary action includes:

- A. Interference with freedom of speech or movement, or intentional disruption or obstruction of teaching, research, administration, or other functions on university property.
- B. Actual or threatened physical abuse of any person on university premises or at functions sponsored or supervised by the University.
- C. Refusal to comply with the directions of university officials, instructional or administrative, acting in performance of their duties.
- D. Theft or vandalism of university property or that of a member of the University or a campus visitor.
- E. All forms of dishonesty, including cheating, plagiarism, knowingly furnishing false information to the University, forgery, and the alteration or misuse of university documents, records, or instruments of identification.
- F. Unauthorized carrying or possession on university premises of firearms or any weapon with which injury, death, or destruction may be inflicted.
- G. Violations of civil law on university premises or in connection with university functions. There are also other specific rules and regulations within the University and its several components, violations of which are subject to disciplinary action. General and special rules

and regulations and provisions for disciplines, arbitration, and appeal, are issued as follows:

For faculty members: the *Faculty Handbook*, published by the Office of the [Secretary of the University Faculty President](#) and [certain specified provisions of the Human Resources Policy Manual involving general University policies, distributed through the Benefits Administration Office.](#)

For students: student handbooks and manuals issued by the deans' offices of the several schools and colleges of the University.

For staff members: the [Human Resources Policy Manual](#) *Personnel Policy Manual* available in all departments and issued by the University's Department of Human Resources.

Any member of the university community accused of violating a rule or regulation is entitled to adequate notice of all charges and to a fair hearing. The president of the University has the authority to suspend an employee or student so accused prior to a hearing, if, in the judgment of the president, the individual's presence constitutes a danger to people or property on the campus.

While the University's rules and regulations exist to affirm the special values and functions of the academic community, it should be noted that, as citizens, all members of the University are subject to civil laws, including those governing the use of alcohol and drugs.

*\*Office of the President 9/77.*

### **II. Guidelines for the Use of University Facilities by Individuals and External Groups\***

#### **A. In General**

These guidelines apply to facilities whose use is controlled by the Office of Conferences and Special Events or the room control unit of the University Registrar's Office. Facilities controlled by other campus offices may have different procedures but will adhere to the same general policies.

The facilities and services of Case Western Reserve University are maintained to serve the needs of the Case community--instructional, research scholarly,

administrative, service, and social. Any individual or group using university facilities or services is expected to abide by the enclosed rules of conduct.

The University reserves the right to withhold from any individual or group the use of campus facilities or services when, in the judgment of the University's officers, such use is not in the best interest of the institution or may place it in a position of legal liability or when the individual or group has failed to settle debts outstanding from prior activities.

Case does not take positions on political issues other than those that relate directly to its own mission. University services and facilities may not be used for political fund-raising or to advocate a partisan political position. Requests for their use will not be granted for activities that may cause the University to appear to be taking a position with regard to a public issue or a candidate for public office.

Campus facilities are made available for various purposes in the following order of priority:

1. Case teaching and research activities.
2. University meetings and conferences.
3. Student activities.
4. Alumni activities.
5. Nonprofit organizations with preference given to professional and learned societies and to other University Circle member institutions.
6. Other organizations when the event is related to Case's interests.

Case's campus facilities are not made available to individuals for private functions, with exception of memorial services or weddings in Amasa Stone and Harkness Chapels, and then only for members of the campus community (faculty, staff, students, alumni, members of governing boards, their parents or children). In exceptional situations, use of a chapel may be authorized for the memorial service of an individual who was not formally a member of the Case community but whose active involvement in the life of the University was demonstrated in other roles. In connection with a wedding or memorial service held on campus, a reception may also be held in an appropriate university facility. Reservations for weddings are accepted no more than one year in advance.

Fees are assessed for all private functions and for use by outside organizations.

Additional information is available from the Case Office of Conferences and Special Events.

#### **B. Student Groups and Campus Organizations**

Recognized student organizations, as defined in the April 12, 1976 report of the Faculty Senate Committee on Student Affairs or as this definition may be amended in the future, will be provided with space for their activities to the extent that it is available. These organizations will be furnished with office space without charge when it is available; note that the determination of the availability of office space is to be made by the appropriate university official named in the above-mentioned Faculty Senate report as authorized to recognize student organizations. Charges for the use of facilities other than necessary office space may be assessed by the University in certain circumstances, such as:

1. When the requested facility must be opened during a university recess.
2. When the proposed use of the facility results in the need for special cleaning or repair work.
3. When the requesting organization plans to charge for admission to the event.
4. When a gymnasium or other facility is to be used for purposes other than those for which it was designed.

Campus organizations which are not part of the University's formal educational program but whose membership is composed principally of students or employees of the University, may request the use of university facilities or services. Such a request must be submitted in writing to the vice president and university marshal, describing the purpose and the time period for which the facilities or services are desired, and listing the name of the university employee or student who would assume responsibility on behalf of the requesting organization. If the request is granted, the organization may not allocate to any other group or individual, either on or off campus, any portion of the facilities or services provided. Charges and other conditions of use will be stated by the University at the time the request is granted.

### C. Political Issues and Activities

The University does not take positions on political issues other than those which relate directly to its own mission. University facilities and services may not be used for political fund-raising or to advocate a partisan position, and requests for their use will not be granted for activities which may cause the University to appear to be taking a position with regard to a public issue or a candidate for public office. This restriction also applies to the use of campus mail services, university mailing lists and labels, duplicating and printing equipment, and telephones belonging to the University.

### D. Commercial and Personal Use of University Equipment

University facilities and services will not be made available to any member of the university community for unauthorized commercial enterprises or for purely personal use. Authorization for use may be given only by: the dean of the colleges or of the particular professional school; the vice president for finance and administration; the vice president and university marshal; the provost; or those they designate to provide such authorization. If the use of university equipment (typewriters, duplicating machines, computers, etc.) is granted, such use shall take place during hours which do not interfere with the activities for which the equipment is regularly employed. In addition, equipment may be operated only by individuals who are technically qualified and competent to do so. Charges will be assessed by the University for the use of equipment.

Student commercial enterprises, recognized as such by the University's Office of Business Affairs and registered with the Student Activities Office, will be charged commercial rates for the use of facilities.

*\*Office of the President 9/77; amended 11/87.*

### III. Use of University Funds--Operational Policies and Practices\*

The principal investigator of a grant is empowered to spend funds: (1) according to the terms of the grant or contract, and (2) for personnel (in accordance with university personnel policy) and for equipment or supplies which will assist in the furtherance of the purpose of the project.

University operating funds budgeted for research may be expended only upon the approval of the department head who has the responsibility for his or her department's budget.

*\*Office of the University Vice President 12/8/69; amended 10/17/90.*

### IV. Fringe Benefits Program

The University has available a comprehensive fringe benefits program that includes:

A flexible benefits program which offers:

- a. Group Health Insurance (including Major Medical) with an indemnity plan option plus several alternative managed care options.
- b. A Group Dental PPO.
- c. Group Term Life Insurance for employees and for their spouses and dependent children.
- d. Group Long-Term Disability.
- e. Health Care and Dependent Care Spending Accounts.
- f. A retirement program with several funding vehicles (including TIAA-CREF) that features participant and university contributions. Enrollment is effective the day of appointment if at least age 26; or the first day of the month following or coinciding with the attainment of age 26; or attainment of age 21 and completion of a year of service, whichever occurs first; or any subsequent July 1st, the first day of the Plan Year.
- f. A tuition waiver program for employees and their spouses and dependents.
- g. Social Security.
- h. Unemployment compensation.
- i. Workers' compensation.
- j. Travel insurance.

Benefit plans may be revised by the University periodically. Any changes which occur will affect all participants uniformly.

The University Committee on Fringe Benefits studies, monitors, and evaluates the University's fringe benefits program.

Recommendations for improvements may be made to that Committee or to the Faculty Fringe Benefits Committee, a standing committee of the Faculty Senate.

The Benefits Administration Office should be contacted to obtain detailed information about the program and eligibility.

### ***V. Travel and Related Items***

The university travel program is administered by the Treasurer's Office. The University's travel policy governs reimbursement for travel and related expenses incurred on official university business. It applies to all funds under university control except those funds for which more restrictive rules and rates apply. As an overall general principle, every individual shall utilize the most economical means of travel available. Copies of the university travel program and policy can be obtained by calling the Treasurer's Office.

### ***VI. Academic Integrity Standards for Graduate Students\****

The University's research, scholarship, teaching, and community service are central to its mission. In order to achieve that mission, it is critical that the highest standards of academic integrity are articulated to all members of the University community: faculty, students, and staff. All members of the community have an expectation to interact in a professional manner in those endeavors that promote and facilitate the university's common mission. Adherence to professional Codes of Ethical Conduct can and does play a central role in the matter.

#### **PREAMBLE**

Students, faculty and administrators share responsibility for the determination and preservation of standards of academic integrity. Each must adhere to his/her own personal code of integrity and must be prepared to educate others about the importance of academic integrity, to take reasonable precaution to discourage violations of academic integrity and to adjudicate violations.

For students, education about the importance of academic integrity begins during the admissions process. The centrality of integrity to the academic enterprise is reinforced during new student

orientation when students engage in discussion about academic integrity. Specific mention of academic integrity and course-specific guidelines also may be presented in all classes. Programs and instruction about academic integrity guidelines are available throughout students' graduate school career.

Students are expected to uphold standards of academic integrity by taking reasonable precaution in the academic arena. Reasonable precaution involves implementing measures that reduce the opportunities for academic misconduct, but do not inhibit inquiry, create disruption or distraction in the testing environment, or create an atmosphere of mistrust.

The vitality of academic integrity is dependent upon the willingness of community members to confront instances of suspected wrongdoing. Faculties have specific responsibility to address suspected or reported violations as indicated below. All other members of the academic community are expected to report directly and confidentially their suspicion of violation to a faculty member or a dean or to approach suspected violators and to remind them of their obligation to uphold standards of academic integrity. To the extent possible, the identity of individuals reporting academic misconduct will be kept confidential.

## **POLICIES AND PROCEDURES**

### **A. Prohibited Conduct.**

Academic misconduct is any activity that tends to compromise the academic integrity of the University, or subvert the educational process. Examples of academic misconduct include, but are not limited to:

1. Violation of course rules as contained in the course syllabus or other information provided to the student; violation of program regulations as established by departmental committees and made available to students;
2. Providing or receiving information during examinations such as course examinations and candidacy examinations; or the possession and/or use of unauthorized materials during those examinations;
3. Providing or using assistance in the laboratory, on field work, or on a course assignment, unless such assistance has been authorized specifically by the course instructor;
4. Submitting plagiarized work for an academic requirement. Plagiarism is the representation of another's work or ideas as

- one's own; it includes the unacknowledged, word-for-word use and/or paraphrasing of another person's work, and/or the inappropriate unacknowledged use of another person's ideas;
5. Submitting substantially the same work to satisfy requirements for one course that has been submitted in satisfaction of requirements for another course, without permission of the instructor of the course for which the work is being submitted;
  6. Falsification, fabrication, or dishonesty in reporting laboratory and/or research results;
  7. Serving as, or enlisting the assistance of a substitute for a student in the taking of examinations;
  8. Alteration of grades or marks by a student in an effort to change the earned grade or credit;
  9. Alteration of academically-related University forms or records, or unauthorized use of those forms; and
  10. Engaging in activities that unfairly place other students at a disadvantage, such as taking, hiding or altering resource material, or manipulating a grading system.
  11. Research misconduct as described/defined by federal standards or existing university policies is considered a violation of this academic integrity policy. In addition to the process under this and other University policies, appropriate response and handling of research misconduct also will be handled in accordance with the prescribed federal guidelines.
  12. Professional schools are expected to respond to allegations/violations of academic integrity in the manner prescribed in their policies and procedures and/or this academic integrity policy.

#### **B. Reporting Suspected Violations.**

1. If a faculty member suspects or has been advised by a third party that a graduate student is suspected of having violated academic integrity standards, the faculty member shall consult with the Dean of Graduate Studies about the appropriate course of action. Before speaking with the student, the faculty member may also choose to consult with the chair or dean about academic integrity standards.
2. If the faculty member, in consultation with the chair or dean, determines that the evidence is not adequate to charge the

student with a violation, the matter will be dropped.

3. In some instances, allegations/violations of this policy may require a joint investigation (e.g., Office of Research Administration (ORA) & the Dean of Graduate Studies investigate professional conduct and research misconduct). The ORA will determine the manner in which joint cases are handled.
4. First Violations.
  - a. If the faculty member and the chair/dean agree that a violation has occurred, and the student agrees that a violation has occurred and the violation is determined to be a First Violation (the university has no record of previous violations by the student of the university's Standards of Conduct), the faculty member may choose to sanction the student with either failure in the work in question or failure in the course. In such cases, the faculty member will be provided with a reporting form signed by both the student and faculty member and placed in the student's official file in the School of Graduate Studies.
  - b. The faculty and the chair/dean will refer the case to the Dean of Graduate Studies for possible board action if:
    - i. The student claims not to have violated academic integrity standards or the student disagrees with the sanction imposed by the professor.
    - ii. The faculty member and the chair/dean agree that the seriousness of the first offense warrants presentation to the academic integrity board.
    - iii. The faculty member, after consultation with the Dean of Graduate Studies, prefers to have the academic integrity board investigate or adjudicate the alleged violation, or prefers that the board sanction the student.
    - iv. If the alleged violation is one for which the penalty would be separation from the University (Level Three and Level Four), the dean of the degree-granting School automatically will forward the case

to the Dean of Graduate Studies to be heard under the University Academic Policies and Procedures.

5. Subsequent Violations. If the student's file indicates that the student suspected of a violation has been responsible for one or more previous violations of the university's Standards of Conduct, the case will be referred to the Dean of Graduate Studies or for academic integrity board action.
6. Students may continue to participate in a course or research activities until the case has been resolved unless their continued presence poses a risk to the course or research activity. Under no circumstances should a student be offered a choice of either dropping a course or facing disciplinary action.

#### C. Notice of Charges.

Students shall be notified of University charges in writing, unless a more effective form of notification is deemed appropriate. A hearing will not be scheduled less than forty-eight (48) hours after notification. Charges may be presented in person, by placement in a student's campus mailbox, or by mail to the accused student's local or permanent address on file in the office of the University Registrar. All students are required to maintain accurate and current local and permanent addresses with the University Registrar. Following notification of charges, students are encouraged to and shall be afforded the opportunity to meet with a University official for the purpose of explaining the University judicial process and discussion of the charges. Failure of the accused student to respond to the initiation of charges or schedule a preliminary meeting shall in no way prevent the University from scheduling and conducting a hearing in the absence of the accused student.

#### D. Notice of Hearing.

If a hearing is to be held, written notification will be provided to the student. The notice may be hand delivered, placed into a student's campus mailbox, or mailed to the last known address of the student, either by certified mail or first class mail, no fewer than ten (10) calendar days prior to the hearing. Unless already provided to the student, the notification will include the charge(s), date, time, and location of the hearing, the designated panel, a statement of the student's rights, and information on the hearing

procedures. The accused student may request a postponement for reasonable cause, or a hearing separate from other accused persons. A request for a postponement for reasonable cause must be made in writing, include supporting rationale, and be received by the person sending the hearing notification at least two (2) business days before the scheduled hearing.

#### E. Academic Integrity Board and Hearing Procedures.

1. Academic Integrity Board. If a suspected violation of academic integrity standards that has been reported is a level 3 or 4 violation, the Dean of Graduate Studies will convene the Academic Integrity Board (AIB). The AIB will meet within thirty (30) days of receiving an alleged level 3 or 4 violation. The AIB is comprised of three students (voting members) appointed by the Graduate Student Senate, two faculty (voting members) from a pool appointed by the Faculty Senate and the Dean of Graduate Studies or her/his designee, who will preside over the proceedings. AIB procedures, and the vote required for the determination of responsibility, and the evidence standard will be the same as those for the University Judicial Board.
2. Hearing Procedures.
  - a. The accused student shall appear before the AIB at the scheduled time and place. The faculty member and the faculty member's chairperson/dean need not appear at the hearing, although each may, with the approval of the Dean of Graduate Studies, attend the hearing and address the AIB.
  - b. The hearing shall be conducted in a university facility and shall be closed to the public. Attendance at hearings is limited to those directly involved or those requested by the Dean or AIB to attend. The Dean or AIB will take reasonable measures to assure an orderly hearing, including removal of persons who impede or disrupt the proceedings.
  - c. Formal rules of evidence shall not apply. The Dean may in her/his absolute discretion, admit or exclude evidence and admit or exclude witnesses during the testimony of other

witnesses. In any case in which the charge does not rest exclusively on documentary evidence, the complainant shall be a witness at the hearing.

- d. The accused student may have an advisor throughout the hearing. The advisor may only counsel the student and may not actively participate in the hearing, unless clarification is needed as determined by the Dean or the AIB. This person should be a member of the university community (current faculty member, administrator, staff member, or student). Any advisor, so designated, who is also an attorney-at-law will not be considered to be appearing as counsel.
- e. The accused student may submit a written statement, may invite relevant witnesses to attend, may ask questions of witnesses called by others, and will be notified of potential witnesses to be called. The University may present witnesses as well as question those presented by the accused. The accused student must direct questions to witnesses through the Dean of Graduate Studies.
- f. The accused student may review any evidence that may be introduced prior to the hearing.
- g. In cases requiring special expertise, the Dean or AIB may appoint individuals with appropriate expertise to serve as consultants to the AIB. The consultants may be present and provide information as called upon during the hearing but will not vote.
- h. Students are entitled to a presumption of innocence. Therefore, a student will not be found in violation unless a preponderance of the evidence supports the charge(s).

### 3. Attendance

Because the most accurate and fair review of the facts can best be accomplished when all parties are present, the accused is expected to attend and participate. If an individual does not choose to attend a hearing, the charges will be reviewed as scheduled on the basis of the information available, and a decision will be made. Although no inference may be drawn against a student for failing to attend a hearing or remaining

silent, the hearing will proceed, and the conclusion will be based on the evidence presented. No decision shall be based solely on the failure of the accused student to attend the hearing or answer the charges.

### 4. Record of Proceedings

A single record consisting of written notes, tape recording, or other method selected by the Dean, will be made of all hearings. Such records will remain the property of the University but will be made available to the accused student for review during the appeal period. A written notice of the decision and, if found in violation, information regarding appeal procedures will be provided to the accused student.

### 5. Findings

- a. The AIB shall deliberate in private and makes its determinations by a majority vote. The AIB shall make its decision based upon the evidence presented at the hearing.
- b. Should the AIB find the student “not responsible” for a suspected violation, the faculty member and the student will be so informed in writing by the Dean. The faculty member will be asked to evaluate the student’s performance in the assignment in question and to issue a grade based on her or his normal grading practices.
- c. If the AIB determines that the student has committed an academic integrity violation, the Dean of Graduate Studies will so inform the student and all parties in writing. The Dean of Graduate Studies will inform the student of the right to appeal.
- d. The signed report form from a faculty member or the finding of responsibility by the academic integrity board will become part of the student’s official file. Students found responsible for a first violation will be required, in addition to any other sanctions imposed, to attend an ethics education program or complete an ethics exercise assigned by the Dean of Graduate Studies.

## **F. Sanctions**

Any violation of academic honesty is a serious offense and is therefore subject to an appropriate penalty. Violations at Case Western Reserve University are classified into four levels according to the nature of the infraction. For each level of violation a corresponding set of sanctions is recommended. **Chairs, deans and hearing panels are not bound by these illustrations, which are intended as general guidelines for the academic community.** Since adherence to a code of conduct can be seen as a function of socialization into the group whose norms are reflected in such a code, culpability may be assessed differentially for those with more and less experience as members of the academic community; thus violations of academic integrity by graduate students will presumably be penalized more severely than violations by first semester first year students. Examples are cited below for each level of violation. These examples are illustrations and are not to be considered all-inclusive.

#### 1. Level One Violations

Level One Violations may occur because of inexperience or lack of knowledge of principles of academic integrity on the part of the students committing the violation. These violations often involve a small fraction of the total coursework, are not extensive, and/or occur on a minor assignment. Cases involving Level One Violations may be handled within the individual college/ school in which the individual is a candidate for a degree (e.g., MSASS Doctoral Program Executive Committee). Examples of Level One violations include but are not limited to:

- a. Working with another student on a laboratory or other homework assignment when such work is prohibited; or
- b. Failure to footnote, reference, or give proper acknowledgment in an extremely limited section of an assignment.

Recommended sanctions for Level One Violations are listed below; one of these may be chosen in each case:

- a. Required attendance in a non-credit workshop or seminar on ethics or related subjects;

- b. An assigned paper or research project on a relevant topic;
- c. A make-up assignment at a more difficult level than the original assignment; or
- d. A recommendation to the instructor that no credit be given for the original assignment.

Records of students who commit Level One Violations will be maintained in the respective Chair's/Dean's Office until graduation. A copy of the complaint and its resolution will be placed in the student's official graduate file in the School of Graduate Studies.

#### 2. Level Two Violations

Level Two Violations are characterized by dishonesty of a more serious character or by conduct that affects a more significant aspect or portion of the course work. Cases involving Level Two Violations may be handled within the college/school in which the student is a candidate for a degree, or in the case of a student who is not a candidate for a degree, by the Dean of Graduate Studies. Examples of Level Two Violations include, but are not limited to:

- a. Quoting directly or paraphrasing, to a moderate extent, without acknowledging the source;
- b. Submitting the same work or major portions thereof to satisfy the requirements of more than one course without permission from the instructor;
- c. Using data or interpretative material for a laboratory report without acknowledging the sources or the collaborators; or
- d. Receiving assistance from others, such as research, statistical, computer programming, or field data collection help that constitutes an essential element in the undertaking without acknowledging such assistance in a paper, examination or project.

The recommended sanction for Level Two Violations is disciplinary probation. In cases of academic dishonesty involving out-of-class assignment, the schools, in consultation with the Dean of the School of Graduate Studies, may recommend a failing

grade for the assignment involved and the grade in the course will be determined in the normal manner. However, cheating on a take-home final examination would normally carry a recommended penalty that the faculty member fails the student in the course, as well as disciplinary probation.

Records of students who commit Level Two offenses will be maintained in the respective Chair's/Dean's Office. A copy of the complaint and its resolution will be placed in the student's official graduate file.

### 3. Level Three Violations

Level Three Violations are those that go beyond Level One or Two and that, in the opinion of the Dean of Graduate Studies require adjudication at the university level. Level Three Violations include dishonesty that affects a major or essential portion of work done to meet course requirements, involves premeditation, or is preceded by one or more violations at Levels One and Two. Cases involving Level Three Violations are heard under the School of Graduate Studies Academic Integrity Policies and Rules. Examples of Level Three Violations include but are not limited to:

- a. Copying on examinations;
- b. Plagiarizing major portions of a written assignment;
- c. Acting to facilitate copying during an exam;
- d. Using prohibited materials, e.g., books, notes, or calculators during an examination;
- e. Collaborating before an exam to develop methods of exchanging information and implementation thereof;
- f. Altering examinations for the purposes of re-grading;
- g. Acquiring or distributing an examination from unauthorized sources prior to the examination;
- h. Presenting the work of another as one's own;
- i. Using purchased term paper or other materials;
- j. Removing posted or reserved material, or preventing other students from having access to it;

- k. Fabricating data by inventing or deliberately altering material (this includes citing "sources" that are not, in fact, sources); or
- l. Using unethical or improper means of acquiring data.

The sanction typically to be sought for all Level Three Violations or repeated violations of Level One and Two offenses is a minimum of a one semester suspension from the University.

### 4. Level Four Violations

Level Four Violations represent the most serious breaches of intellectual honesty. Such cases are heard under the School of Graduate Studies Academic Integrity Policies and Rules. Examples of Level Four Violations include but are not limited to:

- a. All academic infractions committed after return from suspension for a previous academic integrity violation;
- b. Infractions of academic honesty in ways similar to criminal activity (such as forging a grade form, stealing an examination from a professor or from a university office, buying an examination, or falsifying a transcript to secure entry into the University or change the record work done at the University);
- c. Having a substitute take an examination or taking an examination for someone else;
- d. Fabrication of evidence, falsification of data, quoting directly or paraphrasing without acknowledging the source, and/or presenting the ideas of another as one's own within a master's thesis or doctoral dissertation, in scholarly articles submitted to referred journals, or in other work represented as one's own as a graduate student; or
- e. Sabotaging another student's work through actions designed to prevent the student from successfully completing an assignment.

The typical sanction for all Level Four Violations and a repeat infraction at Level Three is permanent expulsion from the university. In addition, faculty members

retain the right to fail the student, place a letter in the student's permanent graduate file, which is not removed upon graduation or other action as deemed appropriate by the Dean of Graduate Studies. Such cases are heard under the School of Graduate Studies Academic Integrity Policies and Rules. Notation of "academic disciplinary separation" and notification will be placed on a student's official record in the School of Graduate Studies.

## G. Appeal Process

### 1. Right to Appeal

A student found in violation has the right to appeal the original decision. An appeal of a decision must be submitted in writing and postmarked or hand delivered to the Provost or the Provost's designee, within ten (10) calendar days after the date on which written notice of the decision is sent to the student. Each student shall be limited to one appeal. The decision of the appeal officer is final.

### 2. Grounds for Appeal

An appeal may be based only upon one or more of the following grounds:

- a. Procedural error;
- b. Misapplication or misinterpretation of the rule alleged to have been violated;
- c. Findings of facts not supported by a preponderance of evidence;
- d. Discovery of substantial new facts that were unavailable at the time of the hearing; or
- e. That the disciplinary sanction imposed is grossly disproportionate to the violation committed.

### 3. Appeal Proceedings

- a. The appeal officer shall dismiss the appeal if the appeal is not based upon one or more of the grounds set forth in Section (B) above.
- b. The appeal officer may decide the appeal based upon a review of the record.
- c. The appeal officer may request additional written information or an oral presentation from any relevant person(s) and then decide the appeal based upon the enhanced record.

### 4. Possible Dispositions by the Appeal Officer

The appeal officer may, after a review of the record, uphold the original sanction, dismiss the original sanction, or impose a lesser sanction. An appeal officer may also remand the case to the original hearing body or refer the case to a new hearing officer or panel to be reheard. If possible, the new hearing officer or panel should be different from the one that originally decided the case. If a case is reheard by a hearing officer or panel, the sanction imposed can be greater than that imposed at the original hearing.

### 5. Minor Deviations from Procedure

A student and hearing officer may agree in advance to minor deviations from procedure. Such deviations are not then subject to appeal. Other minor deviations are acceptable as long as such deviations are not found upon appeal to be unreasonably harmful to the student.

## H. VIOLATIONS REPORTED AFTER VOLUNTARY WITHDRAWAL OR ACADEMIC SEPARATION

Suspected violations of academic integrity standards reported after a student voluntarily withdraws or is academically separated will be investigated and adjudicated. A student who withdraws or is academically separated during the investigation and adjudication of a suspected violation may be asked to appear at a hearing or, if the student fails to appear, have her/his case heard *in absentia*. If the student is found responsible for a violation, sanctions can be imposed.

## I. VIOLATIONS REPORTED AFTER GRADUATION

In the event that a suspected violation of academic integrity standards is reported after graduation, the Dean for Graduate Studies will make a determination as to the feasibility of investigation and adjudication. Graduation will not preempt investigation or adjudication of a suspected violation when those processes are feasible. If a student is found responsible for a violation and the sanction imposed makes the student ineligible to earn her or his degree, the degree may be revoked.

## J. MAINTENANCE OF RECORDS

Violations of academic integrity standards are considered violations of the university's Standards of Conduct and will be recorded in the student's official file in the School of Graduate Studies.

\*Revised 1/8/2007; 9/6/2006

## VII. *Acceptable Use of Computing and Information Technology Resources\**

### **Purpose**

The purpose of this policy is to outline the acceptable uses of computing and information technology resources for the Case Western Reserve University community. This policy outlines the standards for acceptable use of University computing and information technology resources that include, but are not limited to, equipment, software, networks, data, and telecommunications equipment whether owned, leased, or otherwise provided by Case. This policy is intended to reflect the University's commitment to the principles, goals, and ideals described in the Case Vision Statement and to its core values.

### **Coordination with Other Policies**

Users of information technology resources at Case Western Reserve University are advised that other university policies, including those for Human Resources, and the faculty and student handbooks, and notably those policies governing copyright and intellectual property compliance, may be related to use of information technology resources, and that those policies must be observed in conjunction with this policy.

### **Access to and Expectations of Persons Using Information Technology Resources**

It is the policy of Case to maintain access for its community to local, national, and international sources of electronic information sources in order to provide an atmosphere that encourages the free exchange of ideas and sharing of information. Case maintains a variety of information technologies for use as resources for people, catalysts for learning, and increased access to technology and an enriched quality of learning. Access to this environment and the University's information technology resources is a

privilege and must be treated with high ethical and legal standards.

Preserving the access to information resources is a community effort that requires each member to act responsibly and guard against abuses. Therefore, both the Case community as a whole and each individual user have an obligation to abide by the following standards of acceptable and ethical use:

- Use only those computing and information technology resources and data for which you have authorization and only in the manner and to the extent authorized.
- Use computing and information technology resources only for their intended purpose.
- Protect the access and integrity of computing and information technology resources.
- Abide by applicable laws and University policies and all applicable contracts and licenses and respect the copyright and intellectual property rights of others, including the legal use of copyrighted material.
- Respect the privacy and personal rights of others.

Access to Case information technology and computing resources is a privilege granted to students, faculty, and staff of Case. The University extends access privileges to individual users of the University's information technology and computing resources. The extension of these privileges is predicated on the user's acceptance of and adherence to the corresponding user responsibilities detailed in this policy and addendum. The University reserves the rights to limit, restrict, or extend access to information technology resources.

### **Application**

This policy applies to all users of Case computing and information technology resources including faculty, staff, students, alumni, guests, external individuals or organizations, and individuals accessing external network services, such as the Internet via University facilities.

The Vice President for Information Technology Services/CIO will determine operational policies, networking standards, and procedures to implement the principles outlined in this policy. ITS has the right to protect shared information technology services.

### **Uses**

In general, the Case community shall use University information technology resources (which include privately-owned computers connected to the University network) in connection with the University's core teaching, research, and service missions. Uses that do not significantly consume resources or interfere with other users also are acceptable but may be restricted by Information Technology Services. Under no circumstances shall members of the University community or others use University information technology resources in ways that are illegal, that threaten the University's tax-exempt or other status, or that interfere with reasonable use by other members of the University community. Any use of University information technology resources, including network infrastructure, for commercial purposes is prohibited.

#### **Sanctions for Violations**

Failure to comply with the appropriate use of computing and information technology resources threatens the atmosphere for the sharing of information, the free exchange of ideas, and the secure environment for creating and maintaining information property and subjects one to disciplinary action. Any member of the Case community found using computing and information technology resources in violation of this policy is subject to existing disciplinary procedures including, without limitation, suspension of system privileges, expulsion from school, termination of employment, and/or legal action as may be appropriate.

#### **Privacy and Security**

There is no inherent expectation of privacy for information stored on Case information technology resources, except as provided by federal and state law and other university policy. Every effort will be made to maintain individual privacy, but the University will not be liable for the failure of these privacy efforts.

#### **Review of the Policy**

This policy may be assessed from time to time to reflect substantive change as a result of changes to the Case information technology resources and/or changes in legal statutes that impact information technology resources, copyright, or other intellectual property issues. The Vice President for Information Technology Services is responsible for determining when the policy needs to be reviewed and the process for review and revision.

*\*approved by the Faculty Senate 2/24/04*

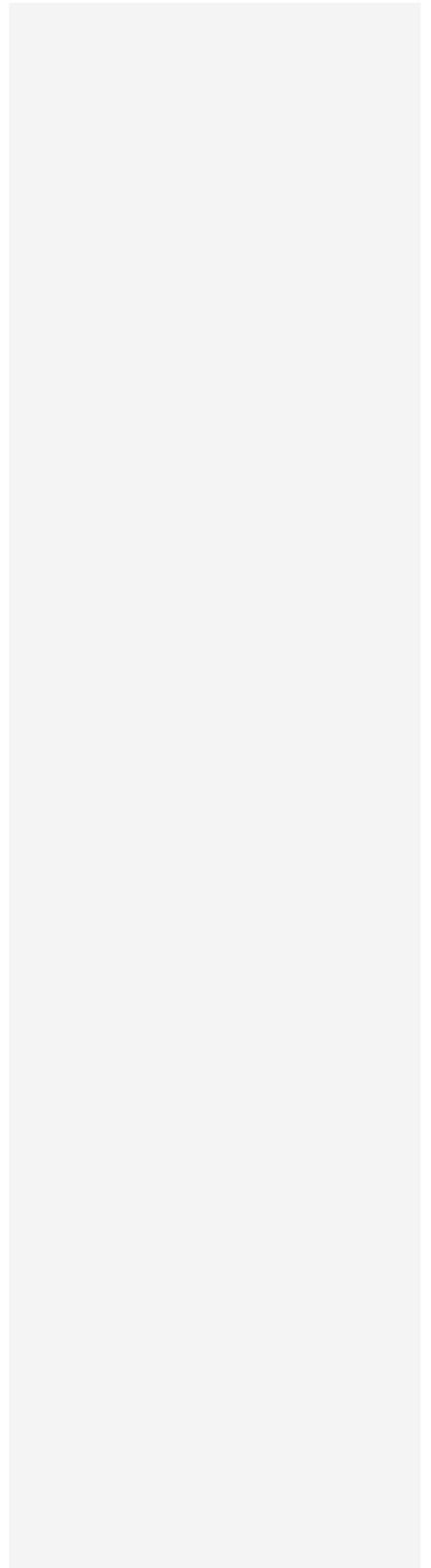
### VIII.

#### **POLICIES ON INDIVIDUAL CONFLICTS OF INTEREST AND INSTITUTIONAL CONFLICTS OF INTEREST** *Conflict of Interest Policy and Procedures\**

**Introduction** This document establishes policies on individual conflicts of interest and institutional conflicts of interest. Research, scholarship, and other creative endeavors have enormous potential to benefit humankind, and the University strongly supports efforts to bring discoveries to society. The purpose of these policies is to protect the University, its faculty, non-faculty employees, students, and trainees, and human subjects and animals in research, and to comply with applicable federal laws. The policies seek to accomplish this by striking the proper balance between, on the one hand, the goal of preserving academic freedom and encouraging outside scholarly and entrepreneurial activities by members of the University that enhance the prestige and reputation of the University and benefit society, and, on the other hand, the need to preserve the integrity of the University and its members and to fulfill the University's responsibilities to the public. In striking this balance, the interests of the public, the integrity of the University and its individual members, and the safety of research subjects always must be given priority. These policies apply generally to the members of the Board of Trustees, all University officers, senior officials, faculty (whether or not engaged in research or other scholarly or creative endeavors), volunteer faculty at the School of Medicine engaged in sponsored research, post-doctoral fellows and scholars, non-faculty employees, students, and trainees. The specific policies cover specific types of individuals.

**The University Conflict of Interest Committee.**  
The members of the Conflict of Interest Committee, including the leadership of the committee, are appointed by the President and

include faculty, non-faculty employees, and administrators. The Conflict of Interest Committee includes at least one member of the public who serves as a regular member of the Conflict of Interest Committee, and a second member of the public who serves as an alternate member of the Conflict of Interest Committee. The members of the public must not have any affiliation with the University (including as alumni, faculty, clinical faculty, adjunct faculty, or emeritus 2



faculty) or with its affiliated hospitals (other than as patients). To the maximum extent possible, the members of the public must be independent of the line of authority for institutional oversight of research. A majority of the members of the Conflict of Interest Committee are members of the faculty as defined in Article I, sections (A) and (B) of the University Faculty Handbook, and one of these faculty members is appointed by the Executive Committee of the Faculty Senate. Membership also includes representatives from hospitals affiliated with the University. These members only participate in the resolution of conflicts of interest involving research. Members of the Conflict of Interest Committee must recuse themselves from consideration of their own conflicts of interest, or institutional conflicts of interest that relate to their own conflicts of interest. **I. Individual Conflict of Interest Policy. A. Who is covered by this policy?** The conflict of interest policy applies to the members of the Board of Trustees; all University officers; senior (“cabinet-level”) officials of the University (comprising the President, Provost, General Counsel, Senior Vice President for Administration, Chief Financial Officer, Vice President for Medical Affairs, the Chief of Staff, the vice presidents for Development, University Relations, and Diversity, Inclusion and Equal Opportunity, and any other individual that the President designates); all University faculty except volunteer faculty in the School of Medicine (unless engaged in sponsored research) and except special faculty members who are not paid by the University, unless engaged in sponsored research; emeritus faculty who have an ongoing relationship with the University or who are engaged in sponsored research; post-doctoral fellows, all employees; students; and trainees. “University faculty” are those individuals defined as University faculty in the Faculty Handbook. This policy applies to these individuals regardless of where they conduct activities covered by the policy. **B. What is an individual conflict of interest?** An individual conflict of interest exists when an individual

covered by this policy has a financial interest that might adversely affect or appear to a reasonable person to adversely affect the individual’s judgment in carrying out University responsibilities, or that might adversely affect or appear to a reasonable person to adversely affect the University’s responsibility to the public, the safety of research subjects, or the integrity of research. **C. Reporting.**<sup>3</sup>

The reporting requirements under this policy are broad, in order to provide adequate protection for individuals covered by the policy, the University and affiliated institutions, and the public interest. It is important to recognize that a reporting requirement does not indicate that the activity in question is in any way objectionable; indeed, reporting is required in connection with many activities in which members of University are expected to engage, such as funded research, or that are otherwise praiseworthy, such as the receipt of honorary awards.

**1. Who must report?**

The following individuals must report under this policy: the members of the Board of Trustees; all University officers and senior officials, as defined in section I(A) of this policy; all University faculty (whether or not engaged in research), except volunteer faculty in the School of Medicine (unless engaged in sponsored research) and except special faculty members who are not paid by the University, unless engaged in sponsored research; emeritus faculty; and senior/key personnel and other individuals who contribute to the scientific development or execution of a research project in a substantive way, and any other employees at the request of their supervisor. Students and post-doctoral fellows and scholars do not have to report unless they contribute to the scientific development or execution of a research project in a substantive way.

**2. What activities must be reported?**

Individuals covered by this policy must report any financial interest (defined in the attached glossary) and the acceptance of any gifts, favors, or anything of value, by the individual or the individual's spouse, dependent children, domestic partner, or any other dependent person who is a member of the same household as the individual, that directly or indirectly might influence or appear to a reasonable person to influence the individual's responsibilities as a member of the University.

Individuals covered by this policy who engage in research must report any financial interest, no matter how small, that the individual or the individual's spouse, dependent children, domestic partner, or any other dependent person living in the same household as the individual, has in any entity that sponsors or supports the research or that holds a financial interest in the subject of the research, and also must report the acceptance of any gift, favor, or anything of value from an entity that sponsors the research or that holds a financial interest in the subject of the research. Individuals covered by this policy also must report whenever a previously reported conflict of interest is eliminated. Whenever an individual covered by this policy has any doubt about whether or not an activity must be reported, the individual should report the activity.

**3. What activities are permitted without reporting?4**

Certain activities may be engaged in without reporting. Typically, these are activities not covered in section 2 above in which academics routinely engage and in which an individual's financial interests are not expected to influence the individual's judgment. Examples of activities in which individuals may engage without reporting include: Receiving royalties for published scholarly work and other writings. Accepting reasonable meals and other customary business amenities (such as pads and pens) that are provided as part of a seminar, course, meeting, or other business-related gathering. Income and travel expenses from service on advisory committees or as a reviewer for governmental and recognized inter-governmental or academic entities or professional societies. Honoraria for reviewing scholarly manuscripts for publication by academic journals or presses. Income from diversified mutual funds. Honoraria and travel support for scholarly presentations to U.S. federal agencies (such as the National Science Foundation, National Institutes of Health, Department of Energy, Department of Defense, National Endowment for the Arts, and National Endowment for the Humanities). Grants and contracts administered through the University. Whenever an individual has any doubt about whether or not an activity must be reported, the individual should report the activity.

**4. How is reporting to be made and to whom?** The University's reporting process is administered by the University's Conflict of Interest Office, except that reporting by members of the Board of Trustees, the President, the Provost, all senior officials of the University, as well as the Chair of the Conflict of Interest Committee, is administered by the Office of General Counsel, and except that the General Counsel reports to the President. Each year, individuals covered by this policy must report in writing any activities listed above. Reports called for by the Conflict of Interest Committee are submitted to that committee. Reports called for by the Office of General Counsel are

submitted to that office. The reports received by the Conflict of Interest Committee are shared with the deans and department chairs of the reporting faculty. Individuals covered by this policy who are not required to report to the Conflict of Interest Committee (other than those described in the preceding paragraph who must

report to the Office of General Counsel or the President) must report any financial interest that relates to their University responsibilities to their supervisors at their annual review. Supervisors who determine that an individual may have a conflict of interest must report this to the Conflict of Interest Office for further review. Compliance with this policy does not relieve the individual from complying with IRB or IACUC reporting requirements. 5. **When is reporting to be made?** Reporting must occur at least annually as instructed by the Office of General Counsel or the Conflict of Interest Office. Individuals also must report the Conflict of Interest Office or the Office of General Counsel, as appropriate, within 10 days after they become aware of a reportable interest or after a conflict of interest has been eliminated. Individuals who have no reportable interests must still submit an annual report to be in compliance with this policy. Individuals who have been recruited to the University must report any conflicts of interest sufficiently in advance of their start date that the conflicts can be reviewed and resolved by the Conflict of Interest Committee prior to their start date. Reporting also is required at the time a research proposal is submitted on the electronic University Review Form, and when a research proposal is submitted to relevant review bodies (such as the CWRU IRB, Cancer IRB, CWRU IACUC, and affiliated IRBs). As per 42 CFR part 50, the University reports to the NIH a conflict of interest related to NIH research prior to the expenditure of grant funds, and within 60 days of identifying any new conflict of interest. The report to the NIH specifies whether the University will manage, reduce or eliminate the financial conflict of interest. **D. Review and approval.**

**1. What is the review process?**

The Office of General Counsel conducts an initial review of all the reports it receives. The Conflict of Interest Office conducts an initial review of all reports it receives. If necessary, they obtain additional information from the individual covered by the policy and from

other individuals who possess relevant information. The Office of the General Counsel or the Conflict of Interest Office, as appropriate, then identifies those activities that must be reviewed and approved by the Conflict of Interest Committee, and those activities that may proceed without review by the Conflict of Interest Committee. The Office of the General Counsel or the Conflict of Interest Office, as appropriate, notifies the Conflict of Interest Committee or the Board of Trustees of those activities that must be reviewed and approved. 6

## 2. What is the approval process?

In reviewing a reported activity, the Conflict of Interest Committee assumes that the activity cannot be undertaken without a suitable management plan. However, in some cases, the activity may be approvable without a management plan. In determining whether a management plan is required, the Conflict of Interest Committee considers the significance of the conflict of interest (such as the size of the individual's financial interest); whether or not the individual is uniquely qualified by virtue of expertise and experience to conduct the research project and the research could not be conducted as safely or effectively without that individual; and the degree of risk imposed on research subjects. Following are some examples of conflicts of interest. In specific cases, individuals may be able to engage in some of these activities with a suitable management plan:

a. Serving as an investigator on a research project involving human subjects that is either sponsored by a company or related to the company's products while that faculty member is receiving royalties, consulting fees, or has equity (or stock options or a future "inventor's share") in the same company.

b. Ghostwriting or having the individual's name attached to a paper written by another individual consulting for or directly employed by industry, including papers featuring data that were simply presented to the individual (without the opportunity to analyze directly, perform calculations, review and/or question the data).

c. A faculty member directing students to purchase books for a course from a bookstore in which he or she or his or her immediate family have a significant ownership interest.

d. Managing the renovation of departmental offices and participating in the selection of an architectural firm in which his or her spouse is a partner.

e. A faculty member acting as a thesis or dissertation advisor to a graduate student for a research project, suggested by the faculty member, that the faculty member expects will substantially enhance the value of a company in which the faculty member has a significant ownership interest.

f. A professor requiring students currently enrolled in his or her class to participate in his or her graduate student's thesis research project as part of course requirements unless deemed pedagogically justified by the individual's department chair or dean.

g. A professor requiring students currently enrolled in his or her class to participate in his or her or another professor's research project unless deemed pedagogically justified by the individual's department chair or dean.

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h. A faculty or non-faculty employee with a financial interest in an outside company serving as the direct academic or research supervisor of a university student/trainee who is employed by that company.

i. A faculty member with a financial interest in an outside company serving as the sole thesis committee chair if the focus of the student's thesis is based on research sponsored by the company.

j. Issuing a University subcontract for research to an outside entity in which the local principal investigator on the research project has a financial interest.

k. Receiving research support for human subjects research from industry without a contract, or for more than the reasonable costs of conducting the contracted research.

l. Accepting financial support directly from external sources, rather than through the university, for research conducted in a University laboratory or utilizing University resources.

m. Accepting compensation from companies for attending or defraying the costs of an industry-sponsored continuing medical education event (including gifts, travel, or accommodations) if the individual is not speaking or presenting.

n. Presenting talks or serving on speakers' bureaus that advertise, market or advance industry products, devices or other technologies, including the marketing of off-label drugs.

o. Receiving payments conditioned upon a particular research result or tied to successful research outcomes.

p. While serving on a board of directors, participating in human subjects research on a technology owned by or obligated to the

business, or receiving sponsored research from the business.

q. Possessing a financial interest that competes with the services provided by the University.

r. Taking administrative action within the University that is beneficial to a business in which an individual has a financial interest.

s. Accepting personal gifts from industry, however small, including for listening to a sales talk by an industry representative, or for prescribing or changing a patient's prescription.

t. Making referrals to a business in which an individual has a financial interest.

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In the case of an individual who is newly hired at the University, the Conflict of Interest Committee may permit a prohibited conflict of interest to continue for a finite period of time during a suitable transition period, provided that the period is as short as possible.

### **3. Management plan.**

The Conflict of Interest Committee may decide to approve an activity subject to a suitable management plan. The management plan may include but is not limited to:

- a. Requiring the individual to recuse him/herself from particular business decisions.
- b. Requiring the individual to inform certain persons or institutions about the conflict of interest and the management plan (such as the Office of Research Compliance, IRBs, IACUCs, subjects, state and federal officials, research sponsors, co-investigators, colleagues, junior colleagues, students, trainees, members and prospective members of the individual's research laboratory, journals to which manuscripts about the research are submitted, and media, lay, and professional audiences with whom the research or other activity is discussed orally or in writing).
- c. Requiring the individual to refrain from participating in certain activities or aspects of activities relating to the research project (such as requiring IRB members with conflicts of interest in connection with research protocols to recuse themselves from deliberations on those protocols, or, where compelling circumstances exist to allow certain research stages or activities to proceed despite a conflict of interest, restricting the individual's roles to those stages and activities, including establishing a point in time for stopping participation and strategies to keep the individual's involvement at a minimum).
- d. Requiring the activity to be approved by additional individuals or entities (such as deans, department chairs, or program chairs).
- e. Requiring others to review academic decisions in which the individual participates.
- f. Requiring independent involvement in the research (such as in recruiting and selecting

subjects, participating in or designing the consent process, providing clinical treatment to subjects apart from the research intervention or procedures, monitoring data, reviewing study design, collecting data, and determining authorship status or order).

g. Requiring the individual to reduce, modify, or eliminate a financial interest (including divesting ownership, restricting the sale or exercise of stock and stock options, and deferring or waiving royalties or milestone payments).

h. Requiring the individual to vacate a position.

i. Prohibiting the individual from disclosing confidential institutional information or channeling discoveries to an outside entity.

j. Prohibiting the research from taking place at the University.

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k. Requiring continued oversight of the activity by the Conflict of Interest Committee.

Management plans are developed according to the nature of the significant financial interest and of the sponsored research--e.g., whether there is an institutional as well as an individual conflict of interest, and whether the investigator is conducting bench, animal or human subjects research. Before finalizing a management plan, the Conflict of Interest Committee must review the plan with the appropriate dean; in the case of University officers, with the appropriate senior official; and in the case of non-school-based non-faculty employees, with the senior University official with oversight over them. If the dean or senior official and the Conflict of Interest Committee are unable to agree on the terms of the management plan, the matter is referred to the Provost or Senior Vice President for Administration. **E. Appeals.** If an individual covered by this policy who is a faculty member is dissatisfied with a determination of the Conflict of Interest Committee, the individual may submit a written appeal to the Provost within 10 days of receipt of the decision. If the Provost upholds the Conflict of Interest Committee's determination, the Provost's decision is final. If the Provost modifies or overrules the Conflict of Interest Committee's determination, the Conflict of Interest Committee may appeal to the President. A non-faculty employee who is dissatisfied with a determination of the Conflict of Interest Committee may submit a written appeal to the Senior Vice President for Administration within 10 days of receipt of the decision. If the Senior Vice President for Administration upholds the Conflict of Interest Committee's determination, the decision of the Senior Vice President for Administration is final. If the Senior Vice President for Administration modifies or overrules the Conflict of Interest Committee's determination, the Conflict of Interest Committee may appeal to the President. If the individual is the President, the President may

submit a written appeal to the Audit Committee of the Board of Trustees within 10 days of receipt of the decision. If the individual is a member of the Board of Trustees, the appeal is conducted in accordance with the policies and procedures of the Board of Trustees. If, when the Conflict of Interest Committee and the dean or senior official who reviews a management plan are unable to agree on the terms of the plan and the matter is referred to the Provost or Senior Vice President for Administration, the Conflict of Interest Committee or the dean or senior official is dissatisfied with the decision of the Provost or Senior Vice President for Administration, they may refer the matter to the President. **II. Institutional Conflict of Interest Policy.**<sup>10</sup>

**A. Who is covered by this policy?** This institutional conflict of interest policy applies to the members of the Board of Trustees, the President, the Provost, all senior (“cabinet-level”) officials of the University (comprising the President, Provost, General Counsel, Senior Vice President for Administration, Chief Financial Officer, Vice President for Medical Affairs, the Chief of Staff, the vice presidents for Development, University Relations, and Diversity, and any other individual that the President designates), vice presidents, vice provosts, deputy provosts, deans, associate and vice deans, department chairs, academic division chiefs, directors of department-level centers, IRB chairs, the chair of the Conflict of Interest Committee, the chair of the Institutional Biosafety Committee, and directors of institutes and centers with department-level status. **B. What is an institutional conflict of interest?** An institutional conflict of interest arises when the financial interests of the University, or a University official acting within his or her authority on behalf of the University, may influence or appear to influence the research, education, clinical care, business transactions, or other activities of the University. In the case of research, the concern is that the financial interests of the University, or of a University official acting within his or her authority on behalf of the University, might affect—or reasonably appear to affect—University processes for the conduct, review, or oversight of the research. An institutional conflict of interest also might arise when an individual covered by this policy receives a financial or other benefit from the use or disclosure of non-public information pertaining to the University. Institutional conflicts of interest may arise when outside activities are inconsistent with an individual’s responsibilities to the University. Outside activities include leadership participation in professional, community, or charitable activities, self-employment, participation in business partnerships, employment or consulting arrangements with entities other than the University, either compensated or

uncompensated, and service on any private-sector board, including for-profit, non-profit, advisory, or honorary. These activities are inconsistent with an individual’s responsibilities to the University when they adversely influence or appear to adversely influence the research, education, clinical care, business transactions, or other activities of the University. An individual conflict of interest may raise an institutional conflict of interest issue and vice versa. **C. Reporting.** There is no separate individual reporting under the institutional conflict of interest policy. The information reported on individual conflict of interest forms is used in carrying out the institutional conflict of interest policy. 11

In addition, the Conflict of Interest Office periodically must receive the following information:

1. From the Senior Vice President of Finance and Chief Financial Officer, a list of the entities in which the University has any financial interest.

2. From the Board of Trustees, a list of the entities in which members of the Board of Trustees and senior officials of the University, their spouses, dependent children, domestic partners, or any other dependent person living in the same household as the individual, have any financial interest. The list of entities provided by the Audit Committee of the Board of Trustees to the Conflict of Interest Committee does not contain the identities of the individuals who have the financial interest in those entities.

3. From the Office of Development, a list of major gifts to the University.

4. From the Office of Research and Technology Management, a list of the University's equity holdings and technology licenses.

#### **D. Review and approval.**

##### **1. What is the review process?**

Reviews of reports conducted solely by the Audit Committee of the Board of Trustees are conducted according to the rules of the Board of Trustees. In the case of all other reports, the Conflict of Interest Office conducts an initial review. If necessary, it obtains additional information from the individual covered by the policy and from other individuals who possess relevant information. The Conflict of Interest Office also reviews potential institutional conflicts of interest that are not required to be reported by an individual, such as non-reportable potential conflicts that the Conflict of Interest Office becomes aware of based on its review of the lists it receives from the Senior Vice President of Finance and Chief Financial Officer, the Board of Trustees, the Office of Development, and the Office of Research and Technology Management. The Conflict of Interest Office then identifies those

activities that must be reviewed and approved by the Conflict of Interest Committee, and those activities that may proceed without review by the Conflict of Interest Committee, and notifies the Conflict of Interest Committee of those activities that the committee must review and approve.

##### **2. What is the approval process?**

In reviewing a reported activity, the Conflict of Interest Committee assumes that the activity cannot be undertaken without a suitable management plan. However, in some cases, the activity may be approvable without a management plan. In determining whether a management plan is required, the Conflict of Interest Committee considers the significance of the institutional conflict of interest (such as the size of the individual's 12

financial interest); whether or not there the individual is uniquely qualified by virtue of expertise and experience to conduct the research project and the research could not be conducted as safely or effectively without that individual; and the degree of risk imposed on research subjects. Following are some examples of institutional conflicts of interest. In specific cases, individuals may be able to engage in some of these activities with a suitable management plan:

- a. Activities in which the University or a University official, acting within his or her authority on behalf of the University, has a financial interest (as defined below) that may adversely affect or appear to a reasonable person to adversely affect the research, education, clinical care, business transactions, or other activities of the University.
- b. Activities in which an individual covered by this policy has a financial interest that directly or indirectly might influence or appear to influence the individual's University responsibilities.
- c. Activities in which an individual covered by this policy receives a financial or other benefit from the use or disclosure of non-public information pertaining to the University.
- d. Outside activities (including leadership participation in professional, community, or charitable activities, self-employment, participation in business partnerships, any employment or consulting arrangements with entities other than the University, either compensated or uncompensated, and any service on any board, including for-profit, non-profit, advisory, or honorary) that adversely influence or appear to adversely influence the research, education, clinical care, business transactions, or other activities of the University.
- e. Research at the University on human subjects (including serving as the principal investigator or sharing in the responsibility for the design, conduct, or reporting of the research) by individuals covered by this policy who have a financial interest (as defined below), no matter how small, that the individual or the individual's spouse,

dependent children, domestic partner, or any other dependent living in the same household as the individual, in any entity that sponsors the research or owns a technology that is the subject of the research.

f. Research at the University on human subjects or on animals (including serving as the principal investigator or sharing in the responsibility for the design, conduct, or reporting of the research) by individuals covered by this policy who materially participate in a procurement or purchasing decision involving major purchases from, or non-routine supply contracts with, a commercial entity that sponsors the research.

A "financial interest" includes income: honoraria, consulting fees, advisory board fees, membership on a speaker's bureau, remuneration, gifts or other emoluments, "in kind" compensation, equity such as stock, stock options or other ownership interests; royalties; 13

non-university grants; debts; loans; non-university contracts; licensing agreements; inventors' shares; and a board or other position with advisory or fiduciary duties, even if uncompensated.

### **3. Management plan.**

The Conflict of Interest Committee may decide to approve an activity subject to a suitable management plan. The management plan may include:

1. Isolating the individual from involvement in research or decision-making regarding research.

2. Requiring the individual to reduce, modify, defer, waive, or eliminate the financial interest that is the source of the conflict, such as equity holdings, royalty income, stock options and milestone payments.

3. If recusal would preclude the individual from fulfilling the responsibilities of a University position, requiring the individual to eliminate the holdings or vacate the position.

4. Requiring the individual to recuse him- or herself from institutional decisions regarding the outside entity that is source of conflict.

5. Requiring the individual to make periodic written disclosure of the conflict to all administrators, faculty, non-faculty employees, and students under individual's supervision, to the Office of Research Compliance, IRBs, IACUCs, subjects, state and federal officials, research sponsors, co-investigators, colleagues, junior colleagues, students, trainees, members and prospective members of the individual's research laboratory, journals to which manuscripts about the research are submitted, and media, lay, and professional audiences with whom the research or other activity is discussed orally or in writing.

6. Appointing independent individuals or committees to oversee high-level administrative decisions (e.g., financial decisions, space allocations, appointments and promotions) in which the individual participates.

7. Prohibiting the research from taking place at the University.

8. Eliminating, reducing, or modifying the University's financial stake in an outside entity or research project.

9. Enhancing or creating firewalls or other conflict-management systems to separate financial and research decision-making.

10. Requiring independent involvement in the research (such as in recruiting and selecting subjects, participating in or designing the consent process, providing clinical treatment to subjects apart from the research intervention or procedures, monitoring data, reviewing study design, collecting data, and determining authorship status or order).

11. Preventing the individual from serving as the principal investigator, co-principal investigator, or investigator on the research project.

12. Protecting students, trainees, junior colleagues and/or non-faculty employees by preventing or limiting their participation in the research project, preventing or limiting them from working in newly-formed

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companies involving conflicted superiors, informing them of the potential conflict, giving them access to senior faculty and non-faculty employees to review questions or concerns, having academic decisions outside the research activity made or reviewed by independent individuals, and recusing the conflicted individual from the chain of authority over salary, promotion, and space allocation decisions.

13. Prohibiting the individual from participating in institutional negotiations with the outside entity except as the University directs.

14. Prohibiting the individual from serving on the board of directors of the outside entity, or as an officer, member of the scientific advisory board, member of a speakers' bureau, or consultant.

15. Prohibiting the individual from disclosing confidential University information.

16. Prohibiting the individual from channeling discoveries to the outside entity.

17. Prohibiting the university from accepting research grants from companies founded by the individual.

Before finalizing a management plan, the Conflict of Interest Committee must seek input from the appropriate University officials

**E. Appeals.** When an individual with an institutional conflict of interest also has an individual conflict of interest, the appeal process under the individual conflict of interest policy applies. In the event that an individual who does not have an individual conflict of interest is dissatisfied with a determination of the Conflict of Interest Committee, the individual may submit a written appeal to the President within 10 days of receipt of the decision. If the individual is the President, the President may submit a written appeal to the Audit Committee of the Board of Trustees within 10 days of receipt of the decision. If the individual is a member of the Audit Committee, the Audit Committee's deliberations and decision is conducted in accordance with the policies and procedures of

the Board of Trustees. If the President or the Audit Committee upholds the Conflict of Interest Committee's determination, the decision is final. If the President modifies or overrules the Conflict of Interest Committee's determination, the Conflict of Interest Committee may appeal to the Audit Committee. **III. Confidentiality** All information contained in reports or obtained in the course of reviewing a potential conflict of interest, institutional conflict of interest, or conflict of commitment, is strictly confidential. The information is only available to the Conflict of Interest Office and the individuals charged with the responsibility for review in the particular case.<sup>15</sup>

**IV. Sanctions** Failure to comply with these policies includes failing to submit a required report, providing false information, omitting required information, failing to maintain confidentiality, failure to carry out duties prescribed by these policies, and refusal or failure to comply with a management plan adopted under these policies. A failure to comply with these policies may, in the case of sponsored research, result in a decision by the Vice President for Research to suspend the research project or refuse to approve a new sponsored research project for the individual who fails to comply. A failure to comply also is subject to the full range of University disciplinary procedures, including:

1. Formal admonition.
2. A letter in the individual's file indicating that the individual's good standing as a member of the University has been called into question.
3. Ineligibility of the individual to apply for grants, IRB approval, or supervision of graduate or professional students or trainees.
4. Non-renewal of appointment.
5. Termination of employment.

The person responsible for ensuring that an individual has complied with the University's Conflict of Interest and institutional conflict of interest policies must report a failure to comply to the Conflict of Interest Office, which refers it to the Conflict of Interest Committee, except that a failure to comply by the President or a member of the Board of Trustees must be reported to the Audit Committee of the Board of Trustees. The Conflict of Interest Committee determines if the matter can be handled by requiring the individual to comply with a corrective action plan devised by the Conflict of Interest Committee. If so, the Conflict of Interest Committee devises the plan and advises the individual of its requirements. If the Conflict of Interest Committee determines that the matter cannot be handled by requiring the individual to comply with a corrective action plan, or the individual refuses to comply, the Conflict of Interest Committee refers the

matter, along with its recommendations about how the matter should be handled, to the appropriate individual or body. In the case of faculty, the Conflict of Interest Committee refers the matter to the Provost. In the case of the Provost, General Counsel, Senior Vice President for Administration, Chief Financial Officer, Vice President for Medical Affairs, the Chief of Staff, the vice presidents for Development, University Relations, and Diversity, and any other individual that the President designates as a senior "cabinet-level" official, the Conflict of Interest Committee refers the matter to the President. If an individual other than a non-faculty employee is dissatisfied with a determination of the Conflict of Interest Committee to impose a corrective action plan or with administrative action by the Vice President for Research to suspend or refuse to approve 16

a sponsored research project, the individual may submit a written appeal to the Provost within 10 days of receipt of the determination. A non-faculty employee who is dissatisfied with a determination of the Conflict of Interest Committee may submit a written appeal to the Senior Vice President for Administration within 10 days of receipt of the decision. If the Provost upholds the Conflict of Interest Committee's determination, the Provost's decision is final. If the Provost modifies or overrules the Conflict of Interest Committee's determination, the Conflict of Interest Committee may appeal to the President. If the Senior Vice President for Administration upholds the Conflict of Interest Committee's determination, the decision of the Senior Vice President for Administration is final. If the Senior Vice President for Administration modifies or overrules the Conflict of Interest Committee's determination, the Conflict of Interest Committee may appeal to the President. Grievance proceedings are conducted in accordance with the procedures provided in Chapter 3(I)(D) of the University Faculty Handbook and Section V-4 of the Human Resources Policy Manual. V.

**Revisions to the Policies**

Any revisions to these policies that are required by law or by government agency action automatically become part of these policies. Other revisions to these policies become effective upon being approved by the President, the Provost, and the Executive Committee of the Faculty Senate. 17

Glossary “Faculty” – “Faculty,” as defined in the Faculty Handbook, comprises tenured or tenure track faculty members, non-tenure track faculty members, and special faculty members. Special faculty members are: 1) those persons holding part-time academic appointments, and 2) persons holding full-time academic appointments, but who have specific, limited responsibilities for the duration of a specific project, or for a limited duration. Examples of special appointments are faculty members hired for one semester, who teach one course on a repeated basis, who engage in clinical supervision only without other responsibilities to the University, or who are engaged in a specific project conducted outside the University. “Financial interest” -- A “financial interest” includes income: honoraria; consulting fees; advisory board fees; membership on a speaker’s bureau; remuneration; gifts or other emoluments; “in kind” compensation; travel expenses, other than those paid for by the University or its hospital affiliates, or reasonable travel expenses paid for participation in scholarly and academic endeavors; equity such as stock, stock options or other ownership interests, including equity that individuals covered by this policy know they will inherit; royalties; non-university grants; debts; loans; non-university contracts; licensing agreements; inventors’ shares; and a board or other position in the private sector (including nongovernmental organizations (NGOs)) with advisory or fiduciary duties, even if uncompensated. “Individual conflict of interest” – An outside interest that might adversely affect or appear to a reasonable person to adversely affect an individual’s judgment in carrying out University responsibilities, or that might adversely affect or appear to a reasonable person to adversely affect the University’s responsibility to the public, the safety of research subjects, or the integrity of research. “Institutional conflict of interest” -- An institutional conflict of interest arises when the financial interests of the University, or a University official acting within his or her authority on behalf of the

University, may influence or appear to influence the research, education, clinical care, business transactions, or other activities of the University; when an individual covered by this policy receives a financial or other benefit from the use or disclosure of non-public information pertaining to the University; and when outside activities are inconsistent with an individual’s responsibilities to the University. “Investigator” – “Investigator” means the principal investigator and any other person who is significantly involved in the design, conduct or reporting of research, including the person’s spouse and dependent children. The term also includes investigators working for subgrantees, contractors, subcontractors, and collaborators. “Outside activities” -- Outside activities include leadership participation in professional, community, or charitable activities, self-employment, participation in business partnerships, employment or consulting arrangements with entities other than the 18 University, either compensated or uncompensated, and service on any board, including for-profit, non-profit, advisory, or honorary. “Senior officials” – “Cabinet-level” officials of the University (comprising the President, Provost, General Counsel, Senior Vice President for Administration, Chief Financial Officer, Vice President for Medical Affairs, the Chief of Staff, the vice presidents for Development, University Relations, and Diversity, and any other individual that the President designates).

**A. It is the policy of the University:**

1. To expect every member of its Board of Trustees, its administrators, faculty, and key staff, while acting for or engaging in an activity affecting the University, to do so with loyalty to the University and to maintain the highest standards of ethics, both in fact and in appearance;
2. To respect the rights of its administrators, faculty, and key staff to engage in activities outside the normal scope of their employment, provided such activities do not conflict with or reflect adversely on the University’s interest, or deprive the University of an appropriate measure of their time and effort; this policy, however, shall not be

construed so as to modify the university policy on academic freedom as stated in its *Faculty Handbook*;

3. To require every member of its Board of Trustees, administration, faculty, and key staff to avoid situations involving conflicts of interest, such as (but not limited to): financial dealings that are contrary to the University's best interests; membership or employment relationships that may be in conflict, acceptance of favors, money, or other considerations, which might obligate the recipient to take actions adverse to the University's interest;
4. To circulate this policy periodically and to provide procedures for its implementation;
5. To provide suitable mechanisms for resolving conflicts of interest, so that the best interests of the University will be protected and the highest standards of ethics will be observed.

**B. The following procedures have been adopted to carry out the conflict of interest policy:**

1. A trustee shall not vote on any matter under consideration at a Board of Trustees meeting in which such trustee has a possible conflict of interest, nor shall such trustee be counted in determining the quorum for the meeting. The minutes of the meeting shall reflect that a disclosure was made by the trustee having a possible conflict of interest, that this trustee abstained from voting and was not counted in determining the quorum for the meeting. Trustee committees and their members shall also operate under the procedures outlined above.
2. The president shall designate the university officers responsible for requesting confidential information periodically from Case Western Reserve University trustees, university officers, administrators, key staff, and faculty. They shall do so to aid in disclosing apparent conflict of interest. It is understood that at this stage they may share confidential information only with each other and the president. These officers may, in instances of apparent conflict involving faculty members, consult with the appropriate vice president and/or dean with whom they may share confidential information for this purpose.
3. The designated university officers, having identified an apparent conflict of interest at Case Western Reserve University, shall consult with the individual involved in an attempt to resolve

the apparent conflict in a manner consistent with the best interests of the University and the rights of the individual while maintaining the highest ethical standards.

4. Said university officers shall refer such conflicts as they are unable to resolve as follows:
  - a. In the case of trustees, university officers, administrators, and key staff, to the Audit Committee of the Board of Trustees for its recommendations which shall be transmitted to the Executive Committee of the Board of Trustees.
  - b. In the case of faculty members, to the president who may inform the Audit Committee and who may discuss the problem with and seek the advice of the Executive Committee of the Board of Trustees. The president, with the concurrence of the Executive Committee, may invoke procedures for dealing with breaches of the standards of professional ethics, which are specified in Chapter 3, Section IV of Policies and Procedures for the Faculty of Case Western Reserve University.
5. The Executive Committee of the Board of Trustees shall resolve conflict of interest matters referred to it by determining a course of action that will best serve the University's interests and that will be in accordance with the highest ethical standards.

*\*Adopted by the Board of Trustees 10/11/77; amended 5/11/79 and 5/13/81; amended and approved by the Faculty Senate 1/27/09 and the Board of Trustees 2/20/09.\**

### **IX. Copyright Compliance Policy\***

As one of the nation's major research institutions, Case Western Reserve University is committed to leadership in the creation of new knowledge, and also is committed to respect for the rights of all copyright holders. In the discovery, use, and dissemination of knowledge, the University fosters integrity in the pursuit of scholarly investigation while contributing to society as a whole.

Respect for the rights of copyright holders and the copyright laws is especially critical in the electronic environment, where copyrighted works are vulnerable to misuse and unintended further distribution, and legislation is evolving with

significant new fines and liabilities for non-compliance. The University's Copyright Compliance Policy supports academic goals and values in a time of changing laws and information technologies and complements the University Intellectual Property Policy and the Acceptable Use of Computing and Information Technology Resources Policy. It is predicated on the belief that accurate information about copyright encourages the proper use of copyrighted materials, eliminates common misconceptions, and reduces the peril of individual and institutional risk. In an effort to create an environment in which all members of the University community lawfully use copyrighted materials, the Policy:

- outlines foundations of copyright that are relevant to the academic mission
- promotes respect for copyright holders' rights
- defines criteria and requirements for compliance with federal copyright laws
- informs University individuals about beneficial and legal exemptions
- offers avenues for continuing information and education about copyright laws.

This document describes the legal requirements and benefits of copyright compliance in order to be helpful to faculty, staff, and students of the University. As such, it offers information and clarification about compliance with relevant portions of the United States Copyright Act. Additional resources, including the full text of laws referred to in this Policy, are in Appendix E.

### 1. Policy Statement

The University expects all faculty, students, and staff to abide by the Copyright Compliance Policy and to be familiar with federal copyright laws relevant to the academic use of copyrighted materials.

The University's reputation as a leader in research and information technologies is strengthened and protected by copyright compliance.

All members of the University community need to understand that copyright infringement may have serious consequences, including significant personal liability for them. The University assumes no liability for, and is not obligated to defend,

individuals who knowingly fail to comply with the Copyright Compliance Policy, the copyright statutes, or any licenses for access to and use of others' copyrighted works. The University terminates the network account of repeat infringers according to the provisions of 17 U.S.C. §1201 and may take other disciplinary action as deemed appropriate.

The University Library provides general information and preliminary consultation on the use of copyrighted materials. The Office of Counsel advises on specific legal matters or redirects university members or organizations to appropriate legal counsel. Rights of the faculty to fair use, as defined in section 9, are protected under the indemnity clause of section 14 of the Faculty Handbook.

The University Library hosts Copyright @ CASE, a website for copyright information and assistance on topics relevant to the CASE community:  
<http://www.cwru.edu/UL/c/index.htm>

### 2. Copyright Background and Importance as Federal Law

The roots of copyright law in the United States are found in the Constitution, which states: "The Congress shall have the power...to promote the Progress of Science and the useful Arts by securing for limited times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." United States Constitution, art. 1, sec. 8, cl. 8. Copyright law is codified as The Copyright Act, Title 17, United States Code. Copyright recognizes that a creator of intellectual property contributes to the whole of society and should be rewarded by having exclusive rights of use for limited times. As the "limited times" expire, others are free to use the works to create new works, thus promoting the progress of knowledge and society.

Copyright also recognizes the needs of researchers to use others' copyrighted works before those limited times and exclusive rights expire. Copyright law provides for a balance between protecting the private rights of creators and the public interest to use copyrighted works in order to create new works.

### 3. Copyright Defined

Copyright is a property right in an original work of authorship. Copyright is automatic and begins the moment any "original work of authorship is fixed in a

tangible medium of expression.”<sup>1</sup>

- Original works of authorship may be literary, dramatic, musical, or artistic: e.g., books, articles, photographs, paintings, sculpture, architecture, pantomimes, choreography, music, or sound recordings. These categories are broad and may include software, web pages, electronic discussion lists, or email.

- “Fixed medium” is also broad: e.g., print, film, a disc, a website, or email. Unpublished as well as published works are fixed and have automatic copyright.

- Copyright protection does not require any form of copyright notice or registration with the U.S. Copyright Office, although affixing a notice and registering a work enhances protection of the owner’s rights.

Copyright does not apply to facts, theories, ideas, mathematical equations, formulas, concepts, titles, systems, or processes; but works embodying such elements may be protected under copyright law if they show some minimal level of creative expression. Copyright only protects the expression of such content. Copyright does not apply to work attributed to the federal government, which can however receive and does hold copyrights transferred to it by other parties (state and local government works may be subject to copyright).

#### 4. Copyright Notices

Many, but not all, works subject to copyright are published with a notice such as “Copyright 1998 by Case Western Reserve University.” Affixing a copyright notice is beneficial to the copyright owner because the notice informs the public that a work is protected by copyright, identifies the copyright holder, and shows the year of first publication. When a work bears a copyright notice, it is much more difficult for an alleged infringer to interpose a defense based upon innocent infringement.

The absence of a copyright notice does not necessarily mean that the work in question is not copyrighted. The use of a copyright notice is optional for works published on or after March 1, 1989. The copyright owner of works published between January 1, 1978, and March 1, 1989, had five years from the date of publication to correct the omission of notice. Works published prior to January 1, 1978, without a copyright notice entered the public domain

immediately upon publication.

Ignorance of whether a work is protected by copyright is no defense against a claim of infringement. The burden is on the user to determine whether he or she is acting legally.

#### 5. Damages For Copyright Infringement

A copyright owner in a general copyright infringement suit may seek damages that include:

- court costs and attorney’s fees
- actual damages
- statutory damages, where applicable
- profits of the infringer that are attributed to the infringement
- temporary and permanent injunction against infringement
- impoundment of infringing copies
- destruction of infringing copies

Damages assessed against an infringer may be very substantial. A court may impose statutory damages of up to \$30,000 for each act of infringement (\$150,000 for willful infringement).

#### 6. Copyright Registration

Copyright registration is accomplished by filing the appropriate form with the United States Copyright Office in Washington, D. C. and paying the required fee. Registration is beneficial to the copyright owner in several ways:

- Registration establishes a public record of the copyright claim.
- Registration is a pre-condition to filing an infringement suit in federal court if the work is of U. S. origin.
- Registration prior to or within five years of publication is prima facie evidence in court of the validity of the copyright.
- Registration prior to or within three months of publication (or prior to its infringement) entitles the copyright owner to seek statutory damages and

attorney's fees in an infringement suit.

- Registration allows the copyright owner to record the registration with the U. S. Customs Service for protection against importation of infringing copies.

## 7. Copyright Exclusive Rights

Copyright owners hold a number of exclusive rights that others may not exercise unless invoking legal exemptions. Commonly referred to as a "bundle of rights," all copyrights can be retained by the creator or "unbundled" individually. Over time, publishers, employers, or corporations may hold some, or all, of the exclusive copyrights.

University faculty, students, and staff may wish to copy articles for a class, use a graphic to enhance a published webpage, or show a movie for instruction. In some instances, copyright law permits such uses without seeking owners' permissions; in other instances, such uses are prohibited. Faculty, staff, and students must be careful not to infringe on the exclusive copyright holders' rights to:

- reproduce a work  
-copy: any fixed "form where it can be perceived, reproduced, or communicated, either directly or with the aid of a machine"<sup>2</sup>
- create derivative (adaptive) works  
-derivative: based on a previous work, with addition of new, original content, e.g., a new musical from a play, a new movie from a book
- distribute the work  
-publish, download, upload, increase access to, transmit electronically
- perform the work publicly  
-recite, render, play, act, dance "with or without the aid of a machine"<sup>3</sup> so that the work can be seen or heard (e.g., audio recordings are performances)
- display the work publicly  
-display to an audience a work licensed only for private viewing
- perform sound recordings publicly by means of digital audio transmission<sup>4</sup>  
Absent a pertinent exemption, unauthorized use of copyrighted materials violates the rights of the copyright holder and is directly contrary to the academic value of respect for others' works. Even unintentional infringement violates the law. Violations of copyright law that occur on the

University network or systems may create additional liability for the University as well as the individual.

In recognizing the necessary balance between creators and users, the law provides criteria for using copyrighted works without infringement. Many determinations need to be made in order to use a copyrighted work or apply an exemption, yet the root of use and determination begins by understanding the exclusive rights of the copyright holder.

## 8. Term Limits of Copyright Protection

The length of copyright protection afforded to a particular work depends upon both the date and the circumstances of its creation. A work by an individual author or authors is protected for a term based upon the life of the authors. Anonymous and pseudonymous works and works made for hire are protected for a specific term of years. Once these terms have expired or the copyright holders have relinquished their rights, the works pass into the "public domain."

### Using Copyrighted Works Without Permission—The Public Domain

The intellectual commons of the "public domain" is the foundation for an informed society and the progress of knowledge. It affords researchers the unrestricted use of works that have entered the public domain.

A work moves into the public domain only after the exclusive rights assigned by federal law have expired or when a copyright holder places a work directly in the public domain. A common misconception about the definition of public domain is that any work without a copyright notice is free to be used without permission or that works on the Internet are in the public domain.

"Public domain" is defined by specific dates of creation or publication (sometimes relative to the presence of a copyright symbol or notice) and by terms of copyright protection afforded to one or more authors for specific times, whether or not a work is published or unpublished.

An exception to copyright protection governs U.S. government publications, which carry no copyright.<sup>5</sup> This exemption applies to federal works, not those of state or local governments, which retain copyright. Additionally, publications funded by the government but authored by someone hired to do the work (grants, contracts) or other published, edited, annotated, or compiled versions of government

documents may be copyrighted.

University faculty, students, and staff must determine the author and date of a work, in order to determine that the work is in the public domain and to use the work without restrictions. When in doubt about copyright ownership, databases, indexes, and/or publishers and clearinghouses are helpful in determining ownership.

When ownership is clear, the included chart “When Works Pass Into the Public Domain” aids in determining true public domain a work’s status:

**When Works Pass Into the Public Domain<sup>6</sup>**

DATE of WORK	PROTECTED FROM...	TERM of PROTECTION
Created 1-1-78 or later	When work is fixed in a tangible medium of expression	Life + 70 <sup>1</sup> years. If work is of corporate authorship, the shorter of 95 years from publication or 120 years from creation <sup>2</sup>
Published before 1923	Now is in public domain	None, expired.
Published from 1923-63	When published with notice <sup>3</sup>	28 years + possibility of renewal for 67 years. If not renewed, is in public domain.
Published 1964-77	When published with notice	28 years for 1st term + automatic renewal for 67 years
Created before 1-1-78 but not published	1-1-78, effective date of the Copyright Act which eliminated common law copyright	Life + 70 years, or 12-31-2002, whichever is greater.
Created before 1-1-78 but published between then and 12-21-2002	1-1-78, the effective date of the Copyright Act which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater

<sup>1</sup>Term of joint works is measured by life of longest-lived author.

<sup>2</sup>Also works for hire, anonymous & pseudonymous works 17 U.S.C. § 302(c)

<sup>3</sup>Under the 1909 Act, works published without notice went into the public domain upon publication. Works published without notice between 1-1-78 and 3-1-89, effective date of the Berne Convention Implementation Act, retained copyright only if, e.g., registration was made within 5 years. 17 U.S.C. § 405

The University encourages the use of public domain works to facilitate the exchange of knowledge and further the academic mission. Committed to leadership in research, the University also encourages members of the University community to place their works into the public domain and to negotiate publication without restrictions, when appropriate. Sharing knowledge expedites use by other researchers and embodies the spirit and intent of the Copyright Act to promote the progress of knowledge.

**9. Copyright Exemption  
Using Copyrighted Works Without Permission—  
§107, The Fair Use Doctrine**

Copyright law allows limited exemptions for copying, distribution, modification, and performance and display of copyrighted works without the copyright holder’s permission, but

exemptions are granted *only under certain circumstances*. This provides a balance that protects the owner’s rights while recognizing the need of others to use the work to create new works. The most important exemption for educational institutions is the one known as “fair use.”

Copyright law does not specify exact limitations of fair use, such as a specific amount of material that may be safely copied or used without permission. Instead it lists four factors as the basis for determining whether a particular use of copyrighted material is a fair use:

1. The purpose and character of the use.
2. The nature of the copyrighted work.
3. The amount and substantiality of the portion used in relation to the whole.

4. The effect of the use upon the potential market for or value of the work.

#### Applying the Four Factor Test

If the use is for the purposes stated in the statute and if the term of copyright protection is still in effect, each of the following four factors must be applied in order to use the work without seeking permission. The fair use test is applicable to single and multiple copies for the classroom. While any single factor might not lend itself to a fair use, the combined analysis of the other factors can tip the balance for an overall fair use:

**Factor 1:** Purpose—the environment and character of the use

- Nonprofit, educational uses are favored over commercial use.
- Transformative uses are favored over reproductions.

**Factor 2:** Nature—type of work being used

- Published works are favored over unpublished works.
- Nonfiction or factual works are favored over fiction or creative expressions.
- Printed works are favored over commercial audiovisual works.
- Consumable works (standard tests, workbooks) have no fair use.

**Factor 3:** Amount and Sustainability of the portion used (quantitative and qualitative)

- Small portions (unless they are the heart of the work) are favored over large portions.
- Thumbnail, low-resolution images are favored over full-sized images.

**Factor 4:** Effect of the use upon the potential market for or value of the work

- Use favored if sales, value, or potential sale of work not reduced or if purchase would not have occurred; considered most heavily weighted factor in recent years.

A detailed fair use chart is available in Appendix

A. Examples of activities that courts have regarded as fair use, in specific circumstances, are: quotation of excerpts for purposes of comment and criticism, short quotations in a scholarly or technical work to support observations, parody of portions of a work, brief quotations in a news report, use in a lesson or assignment by a student or instructor.

Publishers also can exempt educational uses of copyrighted works, but such exemptions must be stated within the materials. This commonly occurs within “Acceptable Use” policies noted on electronic databases and journals or which are present on websites.

There are various “guidelines” that have attempted to apply quantitative restrictions to fair use, and they generally are regarded as too restrictive for academe. They vary from other uses. Commonly the guidelines state the minimums, not the maximums, and as such have often been considered safe harbor guidelines by the general community. While some have been crafted by collaborative efforts, none have the force of law or have been incorporated into The Copyright Act.

#### 10. Technology and Copyright in the Digital Environment

Advances in information technology have made it increasingly easy to create new works and integrate media that were once distinct. These same advances have also made it easier to make exact copies of existing works, create derivative works, and then display and distribute them very widely. Any of these actions can involve the misuse of copyrighted materials. Recent changes in the law have attempted to address these expanding technological possibilities and their concomitant risks.

Revisions to The Copyright Act offer expanded possibilities for education while imposing certain administrative burdens and restrictions on users. The Digital Millennium Copyright Act (DMCA) and the Technology, Education, and Copyright Harmonization Act (TEACH) require institutions to establish procedures and use appropriate technology to protect copyrighted works by restricting access and limiting the ability to download and further transmit them.

##### A. Digital Millennium Copyright Act (DMCA)

The DMCA revision to The Copyright Act recognizes copyright protections for electronic

works. DMCA definitions and restrictions affect everyone who uses copyrighted and technologically protected materials on the University's network or systems.

The DMCA adds new rights for copyright owners to prevent circumvention of "technical protection methods" (TPM) that control access to copyrighted works. Media may now be subject to restriction or access control, and bypassing protection systems of passwords or encryption may now be a violation of copyright law. This may apply to the use of databases, online journals, or other information media.

*Example: Using (extracting or copying) only the introductory interview portion of a DVD movie for instruction could interfere with or bypass protection measures.*

DMCA also adds rights to include copyright management information (CMI) on works.<sup>7</sup> CMI is broadly defined to include the electronic copyright notice, name of an author or copyright owner, title of a work, or anyone credited on a work. Removal or alteration of CMI from a work is prohibited. All CMI that appears on the original work must be included when uploading the copyrighted work onto a network.

**New Definitions and Liabilities:** DMCA broadly defines the scope of network providers in addressing transitory digital network communications, system caching, information residing on systems or networks at the directions of users, such as course websites, and information search tools.<sup>8</sup> As such, it redefines the University as an Online Service Provider (OSP), making the University subject to contributory infringement penalties when its users infringe upon others' copyrights.

**Take Down Notice:** The University, as OSP, is not liable for monetary relief or for injunctive relief for a user's infringement of copyright provided that the University does not have actual knowledge of infringement, receives no financial benefit from it and upon receipt of proper notification of a claimed infringement<sup>9</sup>, and acts "expeditiously" to remove material or disable access to the infringing material.<sup>10</sup>

**Conditions for Protection from Liability:** The University, as OSP, must "adopt and reasonably implement and inform" users of the system or network that policies are in place regarding

appropriate use of networks and systems. The University must also terminate network or system privileges of repeat infringers and must accommodate and not interfere with technical measures that protect digital copyrighted works.

The requirement to have policies in place in order to take advantage of safe harbor provisions protects the University. Increased awareness of copyright laws makes it less likely that an individual can claim ignorance of copyright law and avoid penalties in an infringement claim. The University complies with the law by registering a designated Agent with the U.S. Copyright Office. Case's Agent is:

Jeffrey Gumpf, Assistant Director of Engineering Services Technical Infrastructure and Architect; Crawford Hall, 4<sup>th</sup> Floor; 19000 Euclid Avenue; Cleveland, OH 44106; 216-368-5893; 216-368-5894; email: jag@case.edu

## **B. Copyright and Distance Education Classroom Exemptions for Performance and Display**

The TEACH legislation provides new performance and display (but not reproduction) exemptions for educators and new requirements for institutions' technological strategies to protect copyrighted works and prevent circumvention. The TEACH Act updates distance education provisions for the 21<sup>st</sup> century by amending §110(2) of The Copyright Act and adding a new §112(f). This legislation was drafted with broad participation and consensus from creators, publishers, legislators, and librarians.

The revisions give new exemptions to instructors at accredited nonprofit educational institutions as they teach via interactive digital networks. The TEACH Act brings into closer alignment the lawful performance and display of copyrighted works in both face-to-face and remote teaching environments. The TEACH Act is still more restrictive than the law allowing face-to-face instructional use of copyrighted materials. If the scenarios and requirements of the TEACH Act cannot be met in order to lawfully use copyrighted works without permission, the fair use test should be applied.

### **Instructors' Requirements:**

- The work to be transmitted is one of the following:

-entire performance of a non-dramatic literary work, or

-entire performance of a non-dramatic musical work or only “reasonable and limited portions” of performances of any other work, including dramatic works (plays) and audio-visual works, where

-the portion displayed is comparable to the amount typically displayed in the face-to-face classroom session. [Non-dramatic literary works exclude audio-visual works; non-dramatic musical works exclude opera, music videos, musicals.]

- The copy of the work to be transmitted is legally acquired or made.

- The transmitted work is not a textbook, course pack, or other assigned material that is to be purchased or acquired independently by students.

- The transmitted work is not marketed primarily for digital distance education performance or display.

- The performance or display of the transmitted work is:

-made by, at the direction of, or under the supervision of an instructor, and is

-an integral part of a class session, as systematic mediated instruction, and is

-directly related to the teaching content of the session, not as entertainment.

- Works can be digitized from print or other analog formats<sup>11</sup> if authorized for performance and display in 110(2) when:

-the amount converted is no greater than can be used for the course, and

-no digital version is available for use, or the digital version has technological protection measures that prevent lawful [non-circumvention] use for the class.

#### **Institutional Requirements:**

- Accredited institution is a nonprofit educational or governmental body.

- Copyright information that accurately describes

and promotes compliance is available for and distributed to faculty, students, and staff.

- Notices are provided to users that materials on systems and networks may be subject to copyright protections and must not be violated.

- Transmission of content is made solely for students enrolled in the course.

#### **Information Technology Officials’ Requirements:**

- Technological measures reasonably prevent

-retention of transmitted work in accessible form beyond class session,

-unauthorized copying/dissemination of the work in accessible form, and

-interference with technological protection measures designed by copyright owners to prevent retention or dissemination of their works.

- System or network reasonably prevents unauthorized, unaffiliated users.

- The copy of the work is maintained on the system or network and is accessible only for a time reasonably necessary to facilitate the transmissions.

- Copies made for transmitting purposes are retained by and solely used by the institution.

The TEACH Act applies to digitized materials utilized in the “mediated instructional activities” of distance education. TEACH Act does not apply to digitization of materials that would not normally occur in the classroom setting and thus does not cover materials required for students to study, read, listen to, or watch on their own time.

The fair use doctrine may also be applied in analyzing activities in the digital environment. Therefore, if the distance education use is not applicable or cannot meet all of the TEACH Act requirements, one should apply the §107 fair use four factor test.

#### **11. Using Copyrighted Works—Seeking Permissions**

University faculty, students, and staff should use the following basic strategy to determine if permission is needed to use a copyrighted work:

• Determine if it is a protected or unprotected work:

-No permission is needed if it is in an unprotected category (e.g., it cannot by its nature be copyrighted, it is a U.S. government publication, or it is in the public domain).

-Permission may be needed if it is a protected work.

• If it is a protected work:  
apply the fair use doctrine to:

-determine if the proposed use meets the requirements for teaching, scholarship, criticism, commentary, research, or reporting, and then

-analyze the fair use four factor test (purpose and character of the use of the work, the nature of the work, the amount and substantiality used, the effect on the market or potential market).

If the proposed use appears to fail the fair use test, either identify another work that could be used instead without copyright violation or modify the proposed use and reapply the fair use test. General consultation and information from University Library is available to aid in the fair use test and decision process, although all final decisions rest with the individual. If the use is still not fair, seek permission of the copyright holder.

• Performance or display used in a face-to-face mediated teaching setting where the work is integral to the class is permitted.

• Performance or display of a work via a digital transmission:

-Use §§110,112 TEACH Act requirements (checklist is available in Appendix B) to determine rights. If not applicable, apply the fair use test.

-If neither §§110, 112, or fair use requirements qualify, seek permission or alter the use of the work, and reapply the fair use test.

-If the use fails all requirements, seek permission from the copyright holder.

#### **When Permissions Are Needed**

University faculty, students, and staff are encouraged to take advantage of legal exemptions when using copyrighted works in instruction. If

exemptions do not apply and the work must still be used, seek permission from the copyright holder.

Since exclusive rights can be transferred or “unbundled,” it may be necessary to verify the current copyright holder. In scholarly works, the copyright holder is often a publisher, although creators can negotiate separation and retention of some of their rights.

University faculty, students, and staff can search for copyright holders online at the U.S. Copyright Office, the Copyright Clearance Center, through various publishers’ sites and offices, and with the help of academic faculty directories, databases, and indexes.

Permissions can be obtained directly from the copyright owner (if applicable), through a clearinghouse like the Copyright Clearance Center, or through commercial services such as bookstores where copyrights are secured for course packs. An online permissions process may result in quicker response than a mail request. Allow ample time for a response. Permissions for print materials often are inexpensive or no-fee for higher education. Online resources regarding copyright permissions for a wide variety of materials are available in Appendix C, and the University Library offers advice and assistance with the permissions process.

Sample permission letters are available at many online copyright websites. There is no required form; however, copyright holders require basic factual information about the user, the item, and the environment in which the work will be used:

-identify instructor by name, title, educational affiliation, and all contact details

-identify the specific item, the nature and purpose, dates, and length of the use

-cite title, edition, and volume when appropriate

-identify author/editor/translator full name(s)

-cite a precise description, i.e., exact page numbers

-list additional charts, diagrams, illustrations and accompanying copyright data

When multiple items are involved, a commercial course pack can be created.

#### **Resolving Unclear Ownership**

University faculty, students, and staff may need to pursue facts of ownership before applying exemptions or seeking permissions.

Copyright protection may still be in effect for printed works, internet materials, out of print copies, unpublished works, anonymous works, and instances where the author is deceased. Analysis and documentation of the processes may support a good-faith defense but is not protection from liability. Although a good faith effort must be made to determine whether such a work is subject to copyright, there is no assurance that it will provide an effective defense against an infringement claim.

University Library's Copyright @ Case website for copyright information offers additional resources and assistance for questions related to permissions: <http://www.wru.edu/UL/c/index.htm>

## Appendix A. Checklist For Fair Use

### 1) Purpose

#### Favoring Fair Use

Teaching  
Multiple Copies for classroom  
Scholarship  
Criticism  
Commentary  
News reporting  
Parody  
Transformative use  
Restricted access for class use

#### Opposing Fair Use

Commercial use  
Entertainment use  
Financial benefit  
Removal of copyright notice  
Unrestricted use

### 2) Nature

#### Favoring Fair Use

Published work  
Factual work  
Non-fictional work  
Directly related to use

#### Opposing Fair Use

Unpublished work  
Creative work  
Fictional work  
Non-essential to use

### 3) Amount

#### Favoring Fair Use

Small portion  
Portion is relevant to use  
Portion is not essence of entire work

#### Opposing Fair Use

Large portion or entire work  
Portion is significant ("heart of the work")

### 4) Effect

#### Favoring Fair Use

Copy lawfully acquired  
Few copies made  
No significant effect [potential] market  
No market for permissions

#### Opposing Fair Use

Many copies made  
Affects market or potential market  
Permissions available  
Licensing available  
Unrestricted public access  
Unlimited term of use

*An additional online factor-by-factor analysis with examples: Copyright Crash Course Four Factor Test by Georgia Harper:*  
<http://www.utsystem.edu/ogc/intellectualproperty/copypol2.htm>

## Appendix B. TEACH Act Checklist

Expanded rights of §110(2) and §112(f) also bring additional limits and conditions to the performance and display of copyrighted works in the classroom and via transmissions.

*Conditions and Requirements for Faculty, Staff, and Students:*

The institution is a nonprofit accredited educational institution or government agency.

The institution has a policy on the use of copyrighted works.

The institution provides information about copyright to faculty, staff, and students.

The systems will not interfere with technological controls embedded in the materials.

The materials to be used are specifically for students enrolled in the class.

Only the enrolled students in the class have access to the materials.

Materials are offered at the instructor's direction and are directly related to the course.

The class is part of the regular offerings of the institution.

Copyright notices are included on materials protected by copyright.

Technology reasonably prevents the ability to retain or further distribute the materials.

Materials are available only for the time relevant to the context of the class session.

Materials are stored on secure servers and transmitted only as permitted by this law.

Only the copy needed to make the transmission is made.

Materials are of the proper type and amount authorized by this law:

-entire performances on non-dramatic literary and musical works

-reasonable and limited parts of dramatic literary, musical, or audiovisual works

-displays of other works, such as images in amounts analogous to typical displays in the face-to-face classroom.

Materials are not among those types the law excludes from coverage:

-copies unlawfully obtained

-materials specifically marketed for digital distance education classroom use

-textbooks, course packs, and other materials typically purchased or used by students for independent study outside the classroom or session.

If digitizing an analog work:

-only the amount authorized for transmission is digitized

-there is no digital copy of the work available except that with technical protections to prevent using it for class in the way the statute authorizes it.

*Reprinted with permission, Georgia Harper, 2002*

### **Appendix C. Exemptions to §1201 (DMCA)**

#### **Exemptions to §1201 Rules:**

There are exemptions that allow researchers to circumvent some of the restrictions, but the conditions are narrow and specific and must be read for possible violations to other sections of The Act. Exemptions protect both the research and distribution of research results when the results are not for commercial or piracy uses. In brief, §1201 (d)-(j):

Educational institutions may gain access to a copy in order to make a good faith determination related to acquisitions, when a copy of the work is electronically protected and not reasonably available in another form.

Exemptions for reverse engineering, encryption research and security testing:

-Reverse engineering research allowed, to enable identification and analysis for interoperability, if not readily available to the person engaging in circumvention.

-Encryption research allowed, to analyze encryption technology flaws and vulnerabilities if the copy is lawfully obtained, the research is necessary, the researcher makes a good faith effort to obtain authorization prior to circumvention. Also considered: the dissemination of such research and its intent, the role of the researcher in the field of encryption technology, and whether the researcher provides the copyright owner with notices of the findings of research.

-Security testing allowed, with owners' authorizations, if research is used to solely promote security, information obtained does not facilitate infringement.

DMCA also prohibits trafficking in devices or services that circumvent rights controls that are designed to restrict copying or playing without authorization.

### **Appendix D. Other Exemptions-Statutes Statutory Exemptions to Exclusive Rights**

Search U.S.C. by section number at <http://www.4.law.cornell.edu/uscode/17>

§107 Limitations on exclusive rights, Fair Use

§110 Limitations on exclusive rights, Certain performances & displays (TEACH Act)

§114 Scope of exclusive rights, Sound Recordings

§112 Limitations on exclusive rights, Ephemeral recordings (TEACH 112(f))

§118 Scope of exclusive rights, Use of Certain works of noncommercial broadcasting

§113 Scope of exclusive rights, Pictorial, graphic, sculptural works

**Appendix E. When Works Pass Into the Public Domain**

DATE of WORK	PROTECTED FROM...	TERM of PROTECTION
Created 1-1-78 or later	When work is fixed in a tangible medium of expression	Life + 70 <sup>1</sup> years. If work is of corporate authorship, the shorter of 95 years from publication, or 120 years from creation <sup>2</sup>
Published before 1923	Now is in public domain	None, expired.
Published from 1923-63	When published with notice <sup>3</sup>	28 years + possibility of renewal for 67 years. If not renewed, is in public domain.
Published 1964-77	When published with notice	28 years for 1 <sup>st</sup> term; automatic renewal for 67 years
Created before 1-1-78 but not published	1-1-78, effective date of the Copyright Act which eliminated common law copyright	Life + 70 years, or 12-31-2002, whichever is greater.
Created before 1-1-78 but published between then and 12-21-2002	1-1-78, the effective date of the Copyright Act which eliminated common law copyright	Life + 70 years or 12-31-2002, whichever is greater

<sup>1</sup> Term of joint works is measured by life of longest-lived author.

the Berne Convention Implementation Act, retained copyright only if, e.g., registration was made within five years. 17 U.S.C. §405

<sup>2</sup> Also works for hire, anonymous & pseudonymous works 17 U.S.C. §302(e)

Chart based on chart by Lolly Gasaway and used with permission. Notes courtesy of Professor Tom Field, Franklin Pierce Law Center and used with permission.

<sup>3</sup> Under the 1909 Act, works published without notice went into the public domain upon publication. Works published without notice between 1-1-78 and 3-1-89, effective date of

<http://www.unc.edu/~unclng/public-d.htm>

**Appendix F. Resources  
General Resources**

**A Crash Course in Copyright:** copyright basics, fair use test, myths, in easy language  
<http://www.utsystem.edu/OGC/IntellectualProperty/cprtindx.htm>

**Copyright QuickGuide**, Kenneth Crews, Indiana University-Purdue University, Indianapolis: overview and brief commentary; links to Copyright Management Center homepage with court decisions, analyses.  
<http://www.copyright.iupui.edu/quickguide.htm>

**When Works Pass Into the Public Domain:** what is currently in the public domain

**Intellectual Property and Copyright Information**, North Carolina State University: overview of copyright laws, exemptions, with

explanatory text and various checklists.  
<http://www.lib.ncsu.edu/scc/copyright/copyrightmenu.html>

**The United States Copyright Office:** copyright circulars and publications, press releases, information on pending and current legislation and reports. Instructions on registration, and copyright holder searches.  
<http://lcweb.loc.gov/copyright>

**Frequently Asked Questions (and Answers) About Linking, Chilling Effects Clearinghouse.**  
<http://www.chillingeffects.org/linking/faq.cgi>

**Copyright and Fair Use, Stanford University:** comprehensive, searchable site with full-text of legal resources, links to related sites, publications, mailing lists. <http://fairuse.stanford.edu>

**Copyright Law and Graduate Research:** requirements for publishing theses.  
<http://www.umi.com/hp/Support/DEXplorer/copyright/>

**Coalition for Networked Information (CNI)**  
Electronic Discussion List:  
[listproc@cni.org](mailto:listproc@cni.org) subscribe cni-copyright first name last name

#### Permissions Resources

**Copyright Clearance Center:** seek permissions (formats, republishing), search  
<http://www.copyright.com>

**Various Permissions Online:** books, articles, music, etc. <http://www.copylaw.com/permission.html#online>

**Association of American Publishers:**  
<http://www.publishers.org>

**Authors Registry:** <http://authorsregistry.org>

#### Legislation—Tests, Commentary, Checklists

**Title 17, U.S.C.:** easily searchable by section number, keyword. Cornell University.  
<http://www4.law.cornell.edu/uscode/17/>

**Copyright Act of the United States of America,**  
<http://www.copyright.gov/title17/>

**Digital Millennium Copyright Act Summary, U.S. Copyright Office,**  
<http://www.loc.gov/copyright/legislation/dmca.pdf>

**The TEACH Act Finally Becomes Law, Georgia Harper, University of Texas**  
<http://www.utsystem.edu/ogc/intellectualproperty/teachact.htm>

**The TEACH Toolkit, An Online Resource for Understanding Copyright and Distance Education,** Hoon and Drooz  
<http://www.lib.ncsu.edu/scc/legislative/teachkit>

#### Interactive Tutorial/Copyright Quiz

**A Visit to Copyright Bay, University of St. Francis**  
<http://www.stfrancis.edu/cid/copyrightbay/>

**Copyright@Case, a website hosted by the University Library,** offers copyright information and assistance with copyright issues relevant to the Case community:  
<http://www.cwru.edu/UL/c/index.htm>

<sup>1</sup>§102.

<sup>2</sup>§101.

<sup>3</sup>§101.

<sup>4</sup>§106(6).

<sup>5</sup>§105.

<sup>6</sup>Based upon chart by Lolly Gassaway (University of North Carolina at Chapel Hill) and used with permission. Notes courtesy of Professor Tom Field (Franklin Pierce Law Center) and used with permission.

<sup>7</sup>§1202.

<sup>8</sup>§512(a)-(d).

<sup>9</sup>§512(c)(1)(C).

<sup>10</sup>§512(g).

<sup>11</sup>§112(f).

\*approved by the Faculty Senate 1/26/04

#### **X. Equal Opportunity Policy\***

All faculty and staff of the University are governed by an equal opportunity policy requiring affirmative action to implement the principles of Title VII of the

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Civil Rights Act of 1964 and Executive Order No. 11246.

[The University's policy was initially stated by President Robert W. Morse, October 23, 1969.](#)

[On January 30, 1973, President Louis A. Toepfer announced Policies for Equal Employment Opportunity \(together with Procedures for Assuring Equal Employment Opportunity\), a policy regarding representation at all levels of university governance, and policies for equal educational opportunity.](#)

[On March 12, 1976, the Board of Trustees passed a resolution to ratify the university policy on non-discrimination including the handicapped.](#)

[On June 1, 1978, the Board of Trustees passed a resolution endorsing the adoption of hiring goals as part of the university's affirmative action program. The Executive Committee of the Board of Trustees amended these hiring goals on September 11, 1979.](#)

[On October 7, 1987, President Agnar Pytte reaffirmed the commitment of the University to the affirmative action policy.](#)

The following policy statements will be of particular interest to faculty members. The full documents may be obtained from the Office of [Equal Opportunity & Diversity/Affirmative Action](#) or the Office of the Provost.

It is the policy of Case Western Reserve University to select its faculty and staff without regard to race, religion, sex, age, disability, sexual orientation, [gender identity or expression](#), national or ethnic origin, political affiliation, or status as a disabled veteran or [other](#) veteran [protected under U.S. federal law of the Vietnam era](#).

It is the University's policy to take affirmative action in [recruitment of faculty hiring](#). Case Western Reserve University, as a graduate research university, hires its faculty in a national market from among those with the highest academic credentials, either the Ph.D. or the most advanced professional degree. [University Faculty goals to increasing the diversity of the candidate pool and to for the recruitment hiring](#) of women and minorities are therefore based on the national availability of these persons in their respective disciplines.

Faculty hiring procedures must follow affirmative action requirements, must be documented, and must be submitted to the Office of the Provost. Written

position descriptions with clearly stated criteria are to be developed and submitted to the Office of the Provost. Public advertising should be placed in journals likely to be read by well qualified women and minority candidates, and special efforts should be made to identify candidates through personal or written contacts with sources likely to be aware of promising potential applicants. Search processes must be conducted with objectivity and impartiality. All records relating to a search shall be maintained for three years, except for those credentials explicitly labeled for return or destruction. The Office of the Provost is available to assist in the academic search process, especially in providing information regarding agencies and associations maintaining rosters of women and minority candidates. Finally, before an offer to a candidate may be made, the Office of the Provost must certify that the requirements of affirmative action have been met.

Progress of departments and schools in [increasing the diversity of the candidate pool and increasing diversity in the workplace reaching the employment goals](#) will be continuously monitored by the Office of [Equal Opportunity & Diversity](#) and the Office of the Provost, and a program of education will continue to be carried on at the University so as to publicize the need for affirmative action and non-discrimination.

It is the University's policy to allocate responsibilities and provide promotion opportunities to all faculty and staff employees based upon qualifications, performance, and potential, without regard to race, religion, sex, age, color, disability, sexual orientation, [gender identity or expression](#), national or ethnic origin, political affiliation, or status as a disabled veteran or [other](#) veteran [or military servicemember protected under federal or state law of the Vietnam era](#).

It is the University's policy to set levels of compensation (including salary and fringe benefits) for all faculty members without regard to race, religion, sex, age, color, disability, sexual orientation, national or ethnic origin, political affiliation, or status as a disabled veteran or veteran of the Vietnam era.

Faculty and staff are to avoid or remove themselves from situations that may compromise their authority by making decisions favoring one's own gain or gain for personal friends or family members. The specific areas of concern include contract awards, accurate record keeping, hiring, or performance review and compensation decisions. Faculty and staff are to

avoid circumstances that favor an individual rather than the University's interests.

It is the University's policy to provide procedures for faculty or staff employees who feel they have been treated unfairly in employment for any reason, including discrimination based on race, religion, sex, age, color, disability, sexual orientation, [gender identity or expression](#), national or ethnic origin, political affiliation, or status as a disabled veteran or [other veteran or military servicemember protected under federal or state law of the Vietnam era](#). The Office of [Equal Opportunity & Diversity Affirmative Action](#) coordinates the handling of such complaints by employees. The procedures utilized for faculty are set out in Chapter 3, Part One, V, Grievance Procedures. The procedures for staff are set out in Case's Human Resources Policies and Procedures.

In not renewing the appointment of or in terminating faculty members and staff employees, it is the University's policy to proceed without regard to race, religion, sex, age, color, disability, sexual orientation, [gender identity or expression](#), national or ethnic origin, political affiliation, or status as a disabled veteran or [other veteran or military servicemember protected under federal or state law of the Vietnam era](#).

It is the policy of Case Western Reserve University to make appointments and to select members for groups and committees concerned with university governance without regard to race, religion, sex, age, color, disability, sexual orientation, [gender identity or expression](#), national or ethnic origin, political affiliation, or status as a disabled veteran or [other veteran or military servicemember protected under federal or state law of the Vietnam era](#).

It is the policy of Case Western Reserve University to recruit and admit qualified students at all levels without regard to race, religion, sex, age, color, disability, sexual orientation, [gender identity or expression](#), national or ethnic origin, political affiliation, or status as a disabled veteran or [other veteran or military servicemember protected under federal or state law of the Vietnam era](#); furthermore, it is the policy of Case Western Reserve University to give increased emphasis to the recruiting of women and minority students in areas of the University where they are not represented in proportion to their availability.

It is the University's policy to provide access to all university facilities, services, activities, and funding without regard to race, religion, sex, age, color,

disability, sexual orientation, [gender identity or expression](#), national or ethnic origin, political affiliation, or status as a disabled veteran or [other veteran or military servicemember protected under federal or state law of the Vietnam era](#).

*\*This policy statement summarizes a long series of actions by the Board of Trustees.*

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## XI. Partner Hiring Policy\*

~~In pursuing Case's goal of becoming the most powerful learning environment, recruitment of a highly qualified and diverse faculty and staff is one important contributing factor.~~ Recruitment of desirable candidates and retention of valued employees is often facilitated by creating a welcoming, family-friendly, and diversity-friendly environment. Toward this goal, the University must create structures that will assist in the successful recruitment and retention of new faculty members and administrators who increase the quality and diversity of the University.

In today's work environment, it is often the case that a desirable faculty candidate or staff candidate has a partner who will also wish to seek employment, in academia or elsewhere, if the faculty candidate or staff candidate relocates to [the region](#). Similarly, a current faculty member or administrator may have a partner who needs employment in order to enable the pair to remain in [the University Cleveland](#). In these dual-career situations, the following procedures will be in effect:

1. This partner hiring policy will apply whenever a final candidate is offered either a (1) tenured, tenure-track, or non-tenure track faculty appointment or (2) a staff position requiring recruitment at the level of a national search and the final candidate would need to relocate to [the University Case](#) from outside the Cleveland area. It will also apply to the partners of current tenured, tenure-track, or non-tenure track faculty members or to staff persons recruited at the level of a national search when the appropriate dean and the Provost, in their discretion, desire to use this policy to help retain a valued faculty member or administrator who is at risk of being employed by another institution because the faculty member's or administrator's partner needs employment in order for the individual to remain at [the University Case](#) (hereinafter "covered faculty and administrators").

2. Every such final candidate described above will routinely receive a copy of this policy at the time a

job offer is made. The policy will be made available to current faculty and administrators via the Faculty Handbook and Human Resources Policies & Procedures. It also will be made available to search committees for faculty and executive staff positions.

3. The partners of final candidates will have access to relevant placement services available for up to two years following the final candidate's first employment at Case. Partners of covered faculty and administrators will have access to relevant placement services available under this policy when the appropriate dean and the pProvost, in their discretion, desire to use this policy to help retain a valued faculty member or administrator who is at risk of being employed by another institution because the faculty member's or administrator's partner need employment in order for the individual to remain at Case. In determining whether to use this policy for such faculty members or administrators, the dean and the pProvost will consider the pair's overall potential contribution to the diversity and/or strength of the university. The use of this policy for final candidates or covered faculty or administrators is in the discretion of the pProvost and the dean and is not obligatory.

4. The services available under this policy to partners of final candidates or partners of covered faculty or administrators include the following:

- a. access to the University's job postings;
- b. access to the University's database of community job postings, including openings at other universities and/or colleges in the Greater Cleveland area, with referrals where appropriate;
- c. access to a placement specialist for assistance with the job search process, if available; and
- d. access to an immigration specialist when appropriate.

5. In the event that the partner of a final candidate or partner of a covered faculty member or administrator is pursuing an academic career, the appropriate dean and/or department chair in the initial hiring school, or appropriate supervising administrator, may request, through the Office of the pProvost where necessary, review of the partner for hiring by another department or school within the University. If the department or school considering the partner wishes to offer that person a position, the Provost and the Office of Equal Opportunity and Diversity (EOD) will work with the relevant dean, school, or administrator to facilitate the

partner's hiring, if possible. The EOD Office will review the partner's qualifications, distinguishing characteristics, and potential contributions to the University; and if the final candidate or covered faculty member or administrator has received appropriate approval by the EOD Office, the EOD Office generally will approve the department or school proceeding without an equal opportunity search for the position to be held by the partner of the final candidate or partner of a covered faculty member or administrator if documented reasons exist for such an exemption in light of the pair's overall potential contribution to the diversity and/or the strength of the University.

The Provost and the appropriate dean may, in their discretion, facilitate the hiring of the partner of a final candidate or covered faculty member or administrator in the following instances:

- a. an open position already exists in the department desiring to hire the partner;
- b. an open position will exist in the near future (2-3 years) due to a pending retirement or other planned departure from the faculty (leading to the possibility of a bridge position); and
- c. a new position can be created in the department desiring to hire the partner.

In all three scenarios, to encourage hiring and retention of a highly qualified and diverse faculty, the Provost will work with the appropriate dean and department chair desiring to hire the partner of the final candidate or covered faculty member or administrator to provide funding. [No national search is conducted in the case of partner hiring under this policy.](#) In the event of scenario b, the Provost, appropriate dean, and department chair will work to create the bridge position, allowing the partner to begin work at the University, with the expectation that he or she would fill the future vacancy as long as no performance problems arise during the bridge period or the appointment is not otherwise non-renewed during the bridge period. The parameters of any bridge position should be specified in the offer letter presented to the partner.

*\*approved by the Faculty Senate 4/27/04; revised 3/1/05*

## ***XII. Title IX***

The University complies with Title IX of the Education Amendments of 1972, prohibiting discrimination on the basis of sex in federally assisted

educational programs and activities. Anyone in the university community wishing to discuss a Title IX matter should call the Office of Affirmative Action which is the Title IX coordinator.

### ***XIII. Consensual Relationships Policy\****

Case is a community that values an environment of inclusion, trust, and respect as beneficial for the working and learning environment of all its constituents. Romantic or sexual relationships may occur in a University environment given the numbers of people on a University campus. All relationships must be consensual; but, even though the relationship is consensual, it can raise serious concerns about the validity of the consent, conflicts of interest, and preferential treatment.

There are certain circumstances when romantic or sexual relationships are expressly prohibited, unless managed as described below:

1. if between a supervisor and his/her supervised employee,
2. if between a faculty member and his/her student (including without limitation graduate students),
3. if between a supervising staff or student (including graduate student or teaching assistant) and his/her student, and/or
4. if between a senior faculty member and a junior faculty member supervised by the senior faculty member.

The University considers sexual relationships between faculty (including teaching assistants and laboratory supervisors) and their students or between supervisors and their employees, even if deemed to be mutually consenting relationships, to be a basic violation of professional ethics and responsibility when one party has *any* professional responsibility for the other's academic or job performance or professional future. Because of the asymmetry of these relationships, "consent" may be difficult to assess, may be deemed not possible, and may be construed as coercive. Such relationships also may have the potential to result in claims of sexual harassment.

#### **Policy**

Romantic or sexual relationships between 1) faculty (including without limitation teaching assistants, graders, and laboratory supervisors) and their students, or 2) a supervisor and his/her supervised employee, or 3) a supervising staff or student

(including graduate student or teaching assistant) and his/her student, and/or 4) a senior faculty member and junior faculty member supervised by the senior faculty member are prohibited while the faculty member/supervisor has direct supervision of or any influence on the student's/staff member's/junior faculty member's evaluation or progress academically or professionally. A pre-existing relationship which could reasonably be perceived as having any influence on the objective evaluation of the student, staff member, or junior faculty member by the faculty member/supervisor must be immediately disclosed by the faculty member/supervisor to an appropriate administrator (department chair, dean, course coordinator, or staff supervisor) and a management plan, acceptable to Case (Human Resources and Provost's Office or their designated representatives), must be implemented to assure that the student/staff member/junior faculty member receives objective evaluation and supervision. Such management plan may include, for example, changing the supervisor, having a different faculty member evaluate academic or job-related work, or having the student change courses and may require cessation of either the personal or supervisory professional relationship. See also the anti-nepotism policy contained in Chapter 4, Section VIII of the Faculty Handbook. The designated administrator must document the provision of objective evaluation and submit copies, as applicable, to the relevant Chair (or Dean if a school without departments), Office of Equal Opportunity and Diversity (faculty & staff), or the Office of Student Affairs (students, student supervisors, teaching assistants, and residential staff) and to Human Resources.

#### **Noncompliance with Policy**

Allegations, reports, or other information relating to unreported romantic or sexual relationships where one party has evaluative or supervisory responsibilities over the other party will be investigated. Supervisors, department chairs, deans, or other responsible persons must report all allegations to the Office of Equal Opportunity and Diversity (if the alleged violation is by a faculty or staff member) or the Office of Student Affairs (student or residential staff member). Potential noncompliance with the policy will be reported by the above-listed supervisors, department chairs, deans, or other responsible persons to Human Resources and investigated by the appropriate offices listed above. If noncompliance is ascertained, measures will be taken to ensure suitable supervision/evaluation of the student or supervisee, and appropriate disciplinary measures with regard to the supervisor/faculty member will be taken.

### **Sanctions**

Persons in violation of this policy shall be subject to sanctions ranging from verbal warnings to termination, as provided by applicable University policies. The University reserves the right to discipline members of the University community who make false allegations of unreported consensual relationships. No complaint will be considered "false" solely because it cannot be corroborated.

### **In the Event of a Charge of Sexual Harassment**

Faculty, staff, and students may not use in a sexual harassment proceeding a defense based upon consent when the facts establish that a faculty-student, staff-student, senior faculty-junior faculty, or supervisor-employee power differential existed within the relationship.

### **Policy Administration**

Any faculty, student, or staff may seek advice about the policy from the Office of Equal Opportunity and Diversity (Faculty and Staff) or the Office of Student Affairs (Students).

*\*Approved by the Faculty Senate 3/21/05*

## ***XIV. Sexual Harassment\****

### **I. Policy**

It is the policy of Case Western Reserve University to provide a positive, discrimination-free educational and working environment. Sexual harassment is unacceptable conduct, which will not be tolerated. All members of the University community share responsibility for avoiding, discouraging, and reporting any form of sexual harassment.

Members of the University community found in violation of this policy may be disciplined, up to and including being discharged for cause or being expelled from the University. Retaliation against persons raising concerns about sexual harassment is prohibited and will constitute separate grounds for disciplinary action, up to and including discharge or expulsion from the University.

This policy and the accompanying procedures shall serve as the only internal University forum of resolution and appeal of sexual harassment complaints.

### **A. Laws Governing Sexual Harassment**

Sexual harassment in the workplace is a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964 and by Section 4112.02 of the Ohio Revised Code. EEOC Guidelines require employers to affirmatively address the issue of sexual harassment and to adopt procedures for the prompt resolution of employee complaints. Similarly, federal regulations implementing Title IX of the 1972 Education Amendments require educational institutions, which receive federal funds to provide a prompt and equitable procedure for resolving complaints of sex discrimination, including sexual harassment claims.

### **B. Definitions**

1. Sexual harassment can be defined as any unwelcome sexual advance, requests for sexual favors, or other verbal or physical conduct of a sexual nature, when:
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or student status; or
  - b. Submission to or rejection of such conduct is used as the basis for decisions affecting that individual with regard to employment (raises, job, work assignments, discipline, etc.) or to student status (grades, references, assignments, etc); or
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or educational experience or creates an intimidating, hostile, or offensive work and/or educational environment. The work or educational environment includes classroom and clinical settings, residence halls, activities, programs, offices, and all Case-sponsored events.

Although sexual harassment often takes place when the alleged harasser is in a position of power or influence (e.g., a faculty advisor to a student, supervisor to supervisee), other types of harassment are also possible. Sexual harassment may involve the behavior of a person of either gender against a person of the opposite or same gender. It is not necessarily limited to offensive physical contact or requests for sexual favors. Sexual or "off-color" remarks, name calling, lewd gestures, obscene materials (photographs,

cartoons, etc.), and touching may also constitute sexual harassment.

2. Members of the University community include all Case students, faculty, administrators, and staff, whether full- or part-time.
3. University Representative: If the potential accused is a faculty member, the University representative shall be the Faculty Diversity Officer; if the potential accused is a staff member, the University representative shall be the Director of Equal Opportunity and Diversity; if the potential accused is a student, the University representative shall be the Vice President of Student Affairs. If the potential accused does not fall exclusively within one of the above categories or if any of the above University representatives is the potential accused or a potential witness to the investigation, the President shall appoint the University representative.

#### **C. Responsibilities of the University Community**

University officials in the Provost's Office (ext. 4389), Office of Affirmative Action/Equal Employment Opportunity (ext. 8877), and the Office of Student Affairs, (ext. 2020) are responsible for:

1. Coordinating, disseminating, and implementing this policy;
2. Serving as a resource for all matters dealing with sexual harassment complaints;
3. Advising about and investigating informal sexual harassment complaints;
4. Referring formal sexual harassment complaints to the Sexual Harassment Panel.

Deans, directors, department chairs, department heads, and administrative offices are responsible within their area for:

1. Providing a work and educational environment that is free from harassment and intimidation;
2. Informing complainants about the University's policy and their right to talk to an equal employment opportunity, student affairs, or provost's office official;

3. Participating in investigations, resolutions of complaints, and the implementation of recommended sanctions, if any.

All members of the University community are responsible for:

1. Ensuring adherence to this policy;
2. Discouraging sexual harassment;
3. Cooperating in any investigation which might result, including appearing before a Hearing Committee.

Any member of the University community who is consulted about potentially sexually harassing behavior must advise the accuser of the University's sexual harassment policy and encourage prompt reporting to any one of the designated University officials charged with responsibility for investigating sexual harassment complaints. When a first-hand allegation of sexual harassment is made and the alleged harasser is named, members of the University community must report the allegation to any one these designated University officials.

#### **D. Confidentiality**

The University will make all reasonable efforts to maintain the confidentiality of parties involved in a sexual harassment investigation. Confidentiality, however, cannot be guaranteed. Furthermore, whether informal or formal resolution is sought, anonymous complaints will not be brought against any member of the University community.

#### **E. False Claims of Sexual Harassment**

The University reserves the right to discipline members of the University community who bring false complaints of sexual harassment. No complaint will be considered "false" solely because it cannot be corroborated.

#### **F. Annual Report**

An annual report of sexual harassment complaints and their resolutions shall be produced by the Director of Affirmative Action/Equal Employment Opportunity. The report shall identify accusers and accused by constituency only, e.g., student, staff, faculty.

#### **II. Procedures**

Members of the University community who believe they have been sexually harassed by others in the University community are entitled to an informal

and/or formal investigation and complaint process as detailed below. Visitors, guest lecturers, program participants, etc., may use this policy and the procedures below where applicable to bring complaints against a member of the University community whose behavior in the Case educational or working environment is in question. Members of the University community may use this policy and the procedures below where applicable to bring complaints against visitors, guest lecturers, program participants, etc. whose behavior in the educational or working environment is in question.

Prompt reporting of sexual harassment is in the best interest of the entire University community. Complaints must be brought within two years of the latest alleged incident. It should be noted that the University's authority to investigate, to compel cooperation, or to impose sanctions against those who are not members of the University community is limited. The designated University officials in the Provost's Office, the Office of Student Affairs, and/or the Affirmative Action/Equal Employment Opportunity office will meet with any person(s) who have raised concerns about sexual harassment at the University. They will provide general advice about sexual harassment and will also discuss options for pursuing both informal and formal resolution of a sexual harassment complaint.

Once an accused person or group is identified, the designated University officials will conduct an initial investigation of a sexual harassment complaint. An initial investigation will include interviews with the person(s) reporting harassment and those person(s) accused of harassment and may include interviews of other potential witnesses.

While an initial investigation will be pursued for every identified complaint, disciplinary action will not be taken against any individual or group unless the formal complaint process is used.

#### **A. Informal Process**

The University's informal process provides the University and/or those who believe they are being sexually harassed with a range of options designed to bring about a resolution of their concerns.

Depending upon the nature of the complaint and the wishes of the person(s) claiming harassment, informal resolution may involve one or more of the following:

1. advising the person(s) about how to communicate the unwelcome nature of the behavior to the alleged harasser;

2. distributing a copy of the sexual harassment policy as a reminder to the department or area whose behavior is being questioned;
3. if both parties agree, arranging and facilitating a meeting between the person(s) claiming harassment and those accused of harassment to work out a mutual resolution.

Information about all informal complaints and resolutions will be kept on file in the offices of the designated University officials. Should the formal process be used, the information gathered shall be forwarded to the Sexual Harassment Panel. To prepare the annual report and to more readily identify those against whom multiple informal complaints have been made, the Director of Affirmative Action/Equal Employment Opportunity shall be advised of every informal complaint as brought and of any resolutions of informal complaints.

#### **B. Formal Process**

The University offers a formal process leading to resolution of a complaint if informal resolution is not agreed upon or fails to satisfactorily resolve a concern. Because of the need for flexibility, no timelines have been set. Ordinarily, however, once the formal process is begun, each successive step should be carried out within two weeks of the previous step.

##### **1. Sexual Harassment Panel**

A Sexual Harassment Panel of at least 12 members will be appointed by the President and will include representatives of the administration, faculty, staff, and students who shall normally serve a term of two years, renewable at the option of the President. The Panel will annually elect a Chair from among its members. The Director of Affirmative Action/Equal Employment Opportunity shall serve as Secretary to the Sexual Harassment Panel. All Panel members will be trained in sexual harassment matters.

##### **2. Hearing Committees**

Hearing Committees for individual or University complaints will consist of five (5) members of the Sexual Harassment Panel. Every hearing committee will consist of at least one faculty member, one staff member, and one student. The remaining committee members will include one representative from the constituency of the person(s) alleging harassment (or if the

University initiates the formal process from the constituency which the University deems at risk from the activity at issue) and one from the constituency of the person being accused. The Chair of the Panel shall serve on every committee. Panel members are responsible for notifying the Chair if their personal and/or professional conflicts of interest may make service on a particular committee inadvisable. Upon request by any party to the complaint, the Chair of the Panel shall determine whether a particular Panel member should not serve because of a perceived conflict of interest.

### **C. Initiation of Formal Process**

1. A detailed written statement dated and signed by the person(s) bringing the complaint must be filed with the Secretary of the Sexual Harassment Panel, if the University, rather than a complainant initiates the process, then the University shall provide a written statement with details to the extent known. The statement should be as specific as possible, including dates, times, locations, a description of the alleged harassing behavior, and the name(s) of the alleged harassers. The statement should also identify any person(s) who may have information that would be helpful to the hearing committee.
2. The Sexual Harassment Panel will contact the alleged harasser(s), provide them with a copy of the written statement, and ask for a written response to be submitted by a specified date. The response should also identify any person(s) who may have information that would be helpful to the hearing committee's determination. That response will be forwarded to the hearing committee and to the person(s) charging sexual harassment or to the University representative if the University initiates the process.
3. The Secretary of the Sexual Harassment Panel will arrange a meeting with the parties and the hearing committee within a reasonable time of the receipt of the alleged harasser's response to the complaint.

### **D. Ground Rules**

1. A hearing committee will protect, to the extent possible, the privacy interests of all those involved in the proceedings. To that end, all those appearing before a committee will be advised not to discuss their statements or comment on the proceedings outside of the meeting.
2. All parties, i.e., accusers (or the University if the University initiates the process) and accused, will be allowed to have an advisor of their choice attend the meeting. Advisors may only consult with their parties; they may not address the committee and may not ask questions. All advisors will be bound by the confidential terms of the hearing committee's rules. Upon request by a hearing committee and in any event when a party's advisor is an attorney, a representative of the University Attorney's office shall attend any portion of the meeting for purposes of consulting with and advising the committee.
3. The committee will consider information it has received in writing from the parties as well as the statements presented to it during the meeting. The committee may require members of the University community and ask others to appear at the meeting and, if necessary, continue the meeting to a later date.
4. The parties and their advisors will be permitted to sit in the meeting during all statements and questioning. Other persons will be permitted to attend only during their own statements and questioning.
5. A stenographer will be present to take minutes of the meeting. The committee's deliberations, however, will be private and confidential. The stenographer's transcribed minutes will be the exclusive record of the meeting. The parties may not bring their own court reporters or record the meeting. All parties will be given reasonable access to the record of the meeting.

### **E. Conduct of the Meeting**

1. Persons bringing complaints will be invited to make a statement to the committee. Committee members will be permitted to ask questions at the conclusion of these statements.
2. Persons accused will be invited to make a statement to the committee. Committee members will be permitted to ask questions at the conclusion of these statements.
3. At the conclusion of the committee's questioning of both parties, the accused and the accusing (or the University representative) persons may ask questions of each other; but all such questions must be directed to the Chair.
4. Other persons asked to appear before the committee will be invited to make statements.

Committee members will be permitted to ask questions at the conclusion of the statements. At the conclusion of the committee's questioning of each person, the parties may ask questions of the person; but all such questions must be directed to the Chair.

5. The committee may ask further questions of the parties after it has heard from all other persons invited to appear.
6. Once the committee has heard from the parties and all others invited to appear, it shall dismiss the parties and the stenographer and meet to deliberate in confidence.

#### **F. Possible Findings**

The Hearing Committee will be responsible for issuing one of the following findings after meeting with the parties and gathering all necessary information.

1. The University's sexual harassment policy has not been violated.
2. The University's sexual harassment policy has been violated. To issue this finding, the committee must be convinced, in light of all the information presented, that it is more likely than not that the alleged sexual harassment took place.

#### **G. Report of Findings/Recommendations**

1. Within a reasonable time after the meeting, the committee shall issue a report of its findings and the rationale for its findings to the Secretary of the Sexual Harassment Panel and the parties involved. If the committee has determined that the University's sexual harassment policy has been violated, it shall also make a recommendation as to sanctions.
2. If the committee has determined that the University's sexual harassment policy has been violated, the Secretary of the Sexual Harassment Panel shall distribute the report as follows:
  - a. if the accused is a faculty member or a teaching or research assistant, to that party's Department Chair, Dean, and to the Provost;
  - b. if the accused is an administrator or staff member, to the Director of the Department of Human Resources and the appropriate Vice President (or Provost or the President);

- c. if the accused is a student, to the Vice President for Student Affairs, who will communicate with the appropriate Deans in the case of graduate or professional students.
- d. if the University initiates the process without a complainant, to the University representative who has represented the University throughout the process. Note: for purposes of this process, the University representative shall not be the Provost, VP of Human Resources, or any attorney from the Office of General Counsel.

Upon request by an accuser, a copy of the report shall also be distributed to that person's Department Chair and Dean or supervisor and appropriate Vice President.

3. The University officials identified in 2.a), b), and c) above are responsible for determining appropriate sanctions, if any. In making such a determination, these officials shall not be bound by the recommendations for sanctions, if any, offered by the panel. These officials shall communicate in writing any sanctions to the person(s) bringing the complaint (or the University representative if the University initiated the process), those found in violation of the policy, and to the Chair of the Sexual Harassment Panel.

#### **H. Sanctions**

Sanctions shall be based on the nature and severity of the offense and the extent of the findings. In general, sanctions include, but are not limited to, one or more of the following: public apologies, public reprimands, participation in educational or counseling sessions, written warnings, or letters of reprimand. In addition, faculty and staff may face suspension without pay, denial of a promotion or pay raise, demotion, and termination for cause. Students may also be suspended from the University, the University Housing or selected activities or organizations, placed on probation, or expelled from the University.

#### **I. Appeal**

Any party to a decision may appeal the finding and sanctions to be imposed, if any, to the President in writing within two weeks of the receipt of the report of the officials identified above. The President shall review the findings and sanctions to be imposed, if any, and may review the transcript of the meeting to determine whether to uphold or reject the findings or sanctions. If in disagreement with the findings and/or the sanctions to be imposed, the President shall

provide a written statement of a decision and the reasons for it to the parties, those charged with determining sanctions and the members of the Hearing Panel. The President's decision shall be final.

#### **J. Other University Procedures**

This policy and its procedures shall be the only internal University forum of resolution and appeal of sexual harassment complaints. However, should the infraction be such that the recommended sanctions involve termination of a tenured faculty member's appointment and should the procedures set forth in Section IV of the Faculty Handbook be initiated, the factual findings and conclusions of the sexual harassment hearing committee shall be determinative as to whether the University's sexual harassment policy has been violated. The Section IV proceedings shall be limited to a determination of whether the violation as found constitutes just cause for termination of a tenured faculty appointment.

\*updated 4/27/04

#### **XV. The Disabled**

In addition to its policy of non-discrimination in employment of the disabled, the University complies with The Americans with Disabilities Act (ADA), prohibiting discrimination in employment and in public accommodations and Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination against the disabled in federally assisted educational programs and activities. Responsibility for assuring that the campus is physically accessible to disabled persons rests with the Office of [Facilities Institutional Planning](#). The Office of Educational Support Services works with the [several](#) schools of the University to provide academic adjustments to accommodate the needs of disabled students when requested, [documented and reasonable, and appropriate](#). The Office of [Equal Opportunity & Diversity Affirmative Action](#) coordinates accommodations for disabled employees.

#### **XVI. Affirmative Action for Disabled Veterans and Other Veterans Or Military Servicemembers Protected Under Federal Or State Law of the Vietnam Era**

Case Western Reserve University does not discriminate against any employee or applicant for employment because he or she is a disabled veteran or [other veteran or military servicemember protected under federal or state law of the Vietnam Era](#) in regard to any position for which the employee or applicant for employment is qualified. The University takes affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and [other veterans or military servicemembers protected under federal or state law of the Vietnam Era](#) without discrimination based upon their disability or veteran [or military servicemember](#) status in all employment practices.

#### **XVII. Religious Holidays and Student Absences**

Faculty should accommodate any student who is unable to attend class or participate in any examination, study, or work requirement on a particular day because of his or her religious beliefs. The student will be given the opportunity to make up the examination or work that was missed, provided that the make-up work does not create an unreasonable burden upon the University. Faculty should request that students give notice to instructors as early as possible in the semester.

#### **XVIII. Safety of Life and Property**

The Department of Occupational & Environmental Safety (DOES) and the Office of Risk Management & Insurance have a number of important areas of responsibility, which are described below.

##### **A. Occupational Injury and Illness**

Occupational injuries or illness requiring more than first aid treatment must be reported. The supervisor of an injured employee should call the University's workers' compensation administrator within one working day of knowledge of the incident. This procedure is required for the University to comply with the Occupational Health & Safety Act of 1970.

##### **B. Workers' Compensation Insurance**

Workers' Compensation laws of the State of Ohio cover all employees of the University, including faculty. After any accident or injury incurred in connection with work performed for the University and involving medical costs or loss of earnings,

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employees should call the University's workers' compensation administrator to discuss the situation. A faculty member who will be working for the University outside the State of Ohio for a prolonged period should consult with the workers' compensation administrator regarding workers' compensation coverage for the period out of state.

### **C. Laboratories and Training**

A number of regulatory agencies have jurisdiction over the University's safety practices. Non-observance can result in penalties. Faculty members are responsible for their compliance and that of their employees, with all Federal, State, and Local regulations applicable to their areas of study. The Department of Occupational & Environmental Safety provides a full range of services to assist faculty in meeting these important regulations.

The U.S. Nuclear Regulatory Commission, the Occupational Safety & Health Administration (OSHA), the Environmental Protection Agency, the Ohio Department of Health and the U.S. Department of Transportation impose mandatory training requirements. All faculty using human blood, tissue, body fluids and etiological agents, chemicals, radioactive materials, and radiation producing equipment must fulfill specific training requirements before beginning work with such materials and equipment. Use of these materials and equipment also imposes certain retraining requirements. The Department of Occupational & Environmental Safety provides job specific training and orientation to faculty training responsibilities.

## ***XIX. Liability Protection for Case Employees***

### **General Statement of Policy**

Case Western Reserve University extends liability protection to individuals while acting within the course and scope of their employment on behalf of the institution, in the good faith performance of their assigned responsibilities. The University will indemnify and fully defend any employee so long as: 1) he or she was acting in good faith, 2) in the course and scope of his or her employment, and 3) with the reasonable belief that he or she was acting in the best interests of the University.

### **Procedure for Determinations of Indemnification**

In an individual case, the decision regarding whether indemnification will be afforded depends on the

circumstances giving rise to the claim. The initial decision is made by the University Office of Risk Management and Insurance in consultation with the [University Office of General Counsel](#) and, if necessary, senior officers of the University. The final decision is made after the resolution of the claim. Regardless of whether indemnification and/or defense is initially provided, the University reserves the right to refuse indemnification and to recoup the costs of defense in cases where ultimately it is determined that the employee did not act in accordance with the above General Statement of Policy. The Office of Risk Management and Insurance and/or senior officers of the University making a decision about indemnification or defense of a faculty member may consult with the Faculty Senate Executive Committee for guidance on the decision.

In all cases, however, the University will defend the employee until and unless it becomes clear that indemnification will not be afforded. In any situation where indemnification and/or defense of the employee is not to be provided, or having been provided, is to be withdrawn or terminated, the employee will be advised of that decision as soon as reasonably possible and further will be advised to obtain separate legal counsel. For a reasonable period of time after such notification or until the affected employee obtains separate counsel, whichever earlier occurs, the University will protect the rights of the affected employee.

### **Examples of Factors to be Considered**

In determining whether an employee was acting 1) in good faith, 2) within the course and scope of his or her employment, or 3) with the reasonable belief that he or she was acting in the best interests of the University, the following factors, while not constituting an exhaustive list, will be considered. However, nothing in the following provisions or in this statement of policy should be construed or interpreted to impinge in any way upon the academic freedom of faculty members:

1. In general, ordinary negligence or carelessness of an employee in the performance of his or her assigned duties, which results in a claim against the employee, would result in indemnification by the University. Conduct that is characterized as grossly negligent or intentional wrongdoing may not be indemnified.
2. Employees will not be indemnified by the University with respect to claims made against them that arise from outside consulting or

practice or other activity that is not a part of their assigned University responsibilities.

3. Employees should consult with their superiors and/or the University Attorney's Office with respect to conduct or activities that might reasonably result in a claim against them. An employee's failure or refusal to follow the counsel and advice of superiors or the University Attorney's office on a particular matter might result in a denial of indemnification if a claim is later made pertaining to that matter.
4. In all cases where indemnification is afforded by the University, the ultimate decisions regarding the handling of the claim and whether or not to settle any claim shall be made by the University through its designated officers. Every effort shall be made, however, to consult with the affected employee and to consider any legitimate concerns of the affected employee as to the handling and resolution of the claim.

**Notification**

Employees are asked to notify the Office of Risk Management & Insurance or the Office of the [General Counsel/University Attorney](#) at once if any incident takes place that could lead to a claim. These offices will provide assistance in handling such matters.

***XX. Security/Emergency Procedures***

Questions or problems of a routine nature involving security, requests for security coverage or the filing of crime reports, should be directed to the Security Office. Emergency situations of any type should be reported to Security dispatch at 368-3333.

**Chapter 5**  
**Facilities and Services**

## **LIBRARIES\***

The libraries on the Case Western Reserve University campus welcome you! Case libraries are members of the Association of Research Libraries and participate in OhioLINK, the award-winning academic state consortium. Your Case ID card is the only card needed for borrowing privileges at any of the Case or OhioLINK libraries and for card-swipe evening access to the Kelvin Smith Library and the Health Center Library. Detailed information on hours, services, and policies for each Case library is available on the individual homepages—select “Libraries” from the Case homepage.

### **Kelvin Smith Library (KSL)**

(<http://library.case.edu/>)

KSL supports the undergraduate, graduate, and professional programs of the College of Arts and Sciences, the Case School of Engineering, and the Weatherhead School of Management. The Kelvin Smith Library at 11055 Euclid Avenue, also encompasses the Kulas Music Library in Haydn Hall, the Astronomy Library in the Sears building, and the Retrospective Research Collections Center (RRCC) at 10620 Cedar Avenue.

Situated in the “Heart of the Campus” next to Thwing Center, the KSL opened in 1996 and houses a 1.7 million-volume collection on 30 miles of compact movable shelving. Collections include monographs, journals, theses, newspapers, a 6,000-item video collection, DVDs, and more. The library features gracious spaces for study and group collaboration, with nearly 900 comfortable seats, quiet study rooms, a variety of study carrels, and group study rooms.

Every seat in the Kelvin Smith Library has access to electrical ports, a wireless network, and selected study tables on the 1st and 2nd floors are hard wired for network access (Cat5 cables can be borrowed at the Main Service Desk). Network access provides high-speed connections to the Internet, the Case Software Center, approximately 31,000 electronic journals, nearly 300 electronic databases, and thousands of full text information resources. Two electronic classrooms are available for hands-on or presentation instruction. These classrooms are also the setting for the CASELearns education programs explained in greater detail below.

The Special Collections Department on the 2nd floor of the Kelvin Smith Library collects manuscripts,

rare books, and separate collections of the works of particular genres or authors. The library is also a depository library for U.S. Government publications. The Preservation Department maintains the collection, overseeing repair and binding, and also leads digital preservation projects. The library also houses the Library Administration and processing offices.

**The Kulas Music Library**, housed in nearby Haydn Hall, contains music books, journals, scores, sound recordings, plus listening equipment and compact disc players. The collections, staff, and services are conveniently available to the students and faculty who have offices and classrooms in Haydn Hall. (<http://library.case.edu/ksl/kulas/>)

**The Astronomy Library**, located in the Sears building, is nationally noted for its collections. It has star charts, atlases, journals, books, and observatory publications. (<http://library.case.edu/ksl/astronomy/>)

**The Retrospective Research Collections Center (RRCC)**, located nearby on Cedar Avenue, stores older, fragile, and lesser used materials from all KSL collections. Materials are retrieved to Kelvin Smith Library on weekdays; and anyone may make an appointment to browse the collection, make photocopies, or work from large older volumes. Appointments are necessary (368-4319) to visit RRCC, and a staff member will be available for assistance. The library also participates in Iron Mountain National Underground Storage, offsite remote storage services for brittle or damaged materials. These items are retrieved on weekdays from this facility. The Library Catalog indicates the location of these various off-campus materials, and all may be retrieved via an online retrieval request form on the library’s homepage.

### **Library Catalog** (<http://catalog.case.edu/>)

More than reflecting just the holdings of the Case libraries, the Library Catalog also has quick pulldown links to electronic resources that are available for everyone in the Case community to use. It also offers quick links to three affiliated libraries in the area—The Cleveland Institute of Music (CIM), The Cleveland Institute of Art (CIA), and the Siegal College of Judaic Studies (SCJS). The KSL homepage “Services” link offers more information on borrowing and visiting privileges for these institutions. The “Libraries” link also features quick links to the telnet version of the Library Catalog and the two largest local library consortiums, Cleveland Public Library and its CLEVENET network and the

Cuyahoga County Library system, both award-winning library systems.

Renew your books online! You have a Case library account; and once you choose and enter a PIN, you can use the "View Your Library Record" from the Library Catalog to see the due dates of your Case and OhioLINK materials, renew materials, view fines, and check the progress of materials that you have ordered from the OhioLINK Central Catalog. KSL recognizes the extensive research needs of its faculty and offers a one-year, one renewal, fixed due date for books checked out from KSL and the Case Law Library. All faculty, students, and staff at Case enjoy library privileges from Case and OhioLINK and are responsible for the policies and fines generated by the systems. Overdue and retrieval notices are generated to your @case.edu email from the Library Catalog, making it easy for you to monitor your library materials from all libraries. Check the library homepage for more information on loan privileges on various materials.

The Library Catalog also provides quick links to Course Reserves, Electronic Reserves, electronic information resources such as indexes and abstracts, full text resources, nearly 6,000 electronic journals, and digital projects. Quick links to the Case libraries allow you to find services, departments, and the KSL's "What's New?" column on the homepage, a helpful resource for network alerts, new resources, events, and announcements. All computers on campus have access to these information resources, which are also available via remote access on any web browser. Remote access from home or while traveling is possible at a variety of levels. Free VPN (Virtual Private Network) information for all the Case and OhioLINK resources is available at <http://www.case.edu/dir/computing.html>.

Remote access for OhioLINK resources is available from any web browser, if you have chosen and entered a PIN in your library account.

#### **OhioLINK Services**

Case is a founding member of OhioLINK, the award-winning statewide consortium of 84 Ohio colleges, universities, and the State Library of Ohio. The OhioLINK Central Catalog also displays the catalog of CRL, the Center for Research Libraries. Case faculty, students, and staff have access to 31 million items beyond the Case libraries, with the ability to order items directly from the catalog. All OhioLINK member libraries support onsite borrowing privileges—simply present your Case ID card; and if your Case library account is in good standing, you

can visit any OhioLINK library and checkout materials directly.

When Case's Library Catalog does not have the item you need (or it is checked out or is otherwise unavailable for circulation), simply select the OhioLINK button to re-send your search to the Central Catalog. If available at OhioLINK, order it online, choosing any Case library pickup location that is convenient for you! Generally, materials are delivered within 3-5 days.

Additionally, OhioLINK membership offers Case users access to over 100 electronic databases for research needs, including medical, legal, and a Digital Media Center for images and multi-media resources. Through multi-discipline databases such as Lexis-Nexis, Case researchers can access thousands of full text resources, including newspapers, trade journals, wire transcripts, business publications, federal regulations, and public records. Other databases support results-export to email and bibliographic management software; and the EJC (Electronic Journal Center) features email alert options for table of contents. More information about OhioLINK, including member lists and services, are available at <http://www.ohiolink.edu/>.

#### **Loan Periods**

KSL partners with the Case Law Library to offer Case faculty one-year loan periods for books from the two libraries. Books may be renewed once and have a fixed due date each year, due the first day of Spring Semester finals.

#### **Interlibrary Loan Services**

KSL is an OCLC library and offers ILL services to faculty, students, and staff of the schools it supports, bringing research materials to Case researchers through cooperative arrangements with other libraries, including the Center for Research Libraries, the British Library Document Supply Center, CISTI, and commercial vendors as appropriate. KSL uses the highly automated and sophisticated ILLiad software to offer ILL services. ILLiad is an online service offering researchers real-time tracking of their requests on a customized, personalized ILLiad page and a history of completed or canceled requests, much like commercial sites like UPS.com or online airline accounts. Automated notices are emailed throughout request process, as appropriate. Register your ILLiad account once and then just use your Case ID and a password of your choice to access your account and submit requests. More information,

including the form, is available on the “Forms” link on the library homepage.

#### **Course Reserves**

KSL provides reserve services for faculty upon request. Use the Library online reserve form to choose loan periods for books, book chapters, or articles. You may also elect to have articles placed on electronic reserve for 24/7 remote access. Advance notice is required for traditional reserves and especially for electronic reserves. More information, including requirements, copyright compliance, and staff assistance for course reserves is available under “Services” on the library homepage.

#### **The Samuel B. and Marian K. Freedman Digital Library, Language Learning and Multimedia Services Center**

Located in the KSL, the Freedman Center integrates information technology, scholarly communication, and instructional opportunity across campus. (<http://library.case.edu/ksl/freedmancenter>)

#### **Reference Services**

KSL offers reference services in a variety of ways. Professional librarians staff the reference desk and phone when you are on campus, assisting you with search strategies on new online resources or traditional print resources. Requests can also be made via email or through the *Ask a Librarian* live interactive chat service. You may also submit a request for a reference appointment.

#### **Faculty Librarian Liaisons**

KSL’s librarians are skilled subject-specialists, providing faculty with ongoing opportunities to learn about the services and collections of the library. A librarian is appointed as liaison to each academic department, and each department formally designates a faculty member as a faculty liaison. This partnership maintains communication between the library and the departments and faculty for discussion on new purchases, services, and library news. Additionally, the library works closely with the Faculty Senate Committee on University Libraries, meeting regularly throughout the year. Check with your department chair for the name of your librarian liaison.

#### **CASElearns Education Classes**

Instructing faculty and students on how to use the library and its resources has always been central to the mission of an academic library. Today’s new information resources require ongoing exploration and assistance to maintain current research skills.

Through the CASElearns program, KSL partners with Instructional Technology and Academic Computing (ITAC) and with support from the Department of Human Resources to provide a broad offering—from searching the electronic research sources, smart web searching, to the latest information on using specific research tools and databases. Additionally, classes are offered on copyright, Blackboard courseware, digital media, web page creation tools and skills, and popular software such as Excel, PowerPoint, and bibliographic management tools. The Freedman Center offers instruction on new digital technologies to enhance your instruction, including scanning, digital movies, and multimedia technologies. (See the ITS section of the handbook for more information on ITAC’s services.)

These information services are designed to motivate participants to investigate and utilize new instructional strategies, with staff to assist in using the new technologies to enrich the traditional classroom experience. More information about CASElearns and the Freedman Center is available on the KSL web site.

#### **Library Homepage (<http://library.case.edu>)**

The KSL homepage is the answer to almost any question or service you need. From online forms for a multitude of services to department and contact listings, it offers quick access to people and resources. Check library hours, reference hours, and phone numbers for many services. For highlights on digital projects, quick links to specialized tutorials and subject guides or the newest “What’s New?” column, it’s a wealth of information at your fingertips.

#### **Additional libraries support graduate and professional programs:**

##### ***Cleveland Health Sciences Library*** (<http://www.case.edu/chsl/homepage.htm>)

The Cleveland Health Sciences Library collection consists of books, journals, theses, government documents, audiovisual items, CD-ROMs, and electronic resources. The Allen Memorial Medical Library (at the corner of Euclid Avenue and Adelbert Road) houses the clinical materials as well as older volumes of all CHSL journals. The Dittrick Medical History Center collection in the Allen also contains archives, rare books, and artifacts for research in the history of medical technology. The Health Center Library (in the Robbins Building of the School of Medicine) supports the research and curriculum

needs of the basic sciences, biology, dentistry, medicine, nursing, and nutrition. All audiovisual materials and CD-ROMs are located at the Health Center Library. Interlibrary loan services are available online via the CHSL ILLiad system and/or the Loansome Doc service in PubMed. All electronic journals and databases are accessible through the Case network or VPN remote authentication.

**School of Law Library**  
([http://www.law.case.edu/tech\\_library/](http://www.law.case.edu/tech_library/))

The Law Library supports the curriculum, instructional needs, and programs of the Law School and is a resource for the university community. The collection supports the Law School's six Centers of Excellence including special collections in law and medicine, international and foreign law, and intellectual property. The library is a selected U.S. government depository and a depository for Canadian government documents. Many legal information databases are available via the University's research database page on the University Libraries web page. Of special note are Lexis/Nexis Academic Universe and Lexis/Nexis Congressional Universe.

**The Lillian F. and Milford J. Harris Library**  
(<http://msass.cwru.edu/library/>)

The Harris Library is located in the Mandel School of Applied Social Sciences. Its collection supports the school's curriculum and research interests with an emphasis on social work, social welfare, and management of human service agencies. The library is available for use by Case students, faculty, and staff. The loan period of 28 days applies to all categories of university borrowers, including faculty. The website provides additional information about Library services.

\*Updated 9/1/05

**INFORMATION TECHNOLOGY SERVICES** (<http://www.case.edu/its>)\*

Information Technology Services (ITS) supports innovative technology applications, tools, and services to sustain powerful and secure learning, teaching, and research at Case.

- A high speed network that provides 1-Gigabit connection to every student, faculty, and staff computer
- Wireless deployment with over 1,500 access points providing complete campus coverage

- MyCase portal for convenient access to many Case resources
- Software Center for personal productivity and general purpose software for free or at reduced educational rates
- Help Desk assistance for technical issues and troubleshooting
- Academic and instructional systems such as Blackboard and Courseware
- Telephone services, including Voice over IP, unified messaging, and discounted cellular calling plan
- Audio/video services (including cable TV and videoconferencing) and streaming video
- Residential broadband service at greatly reduced prices
- University-wide administrative systems including ERP financial and human resource systems and data management and warehousing tools
- Online collaborative resources such as Blog and Wiki applications
- Automated free backup system for faculty/staff desktop and laptops computers
- Research computing services including high performance computing, research database administration, and pre-award consultation
- eStore for the purchase of technology products at highly discounted prices
- University archives and records.

**ITS Services**

*Instructional Technology and Academic Computing (ITAC)*

ITAC supports faculty to creatively integrate technology into instructional and classroom pedagogy. Through innovative deployment of technology, customized instructional design, and one-on-one faculty support, ITAC helps faculty extend

and enrich teaching and student learning. Services include:

- Streaming media, video-conferencing, online courseware, and IP Television
- New Media Studio – digital technology to create interactive learning environments
- 3D experiences and innovative multimedia
- Instructional design
- Technology enhanced classrooms
- One-on-one faculty support in the use of instructional technology by professionally trained staff
- Access to trained student technology consultants (STC) for convenient, just-in-time training, and support in faculty offices.

#### *Software Services*

Faculty is eligible to download – generally at no cost – a variety of software packages that the University has purchased and made available through site licenses with software manufacturers. Packages and tools include:

- Microsoft Office Suite
- E-mail
- Spam controls
- Calendaring
- Virus protection
- Operating systems
- Desktop publishing
- Drawing and painting systems
- CAD
- Mathematical and statistical packages and tools, and
- Programming languages.

#### *Research Computing*

Research Computing facilitates cost-effective access to IT resources, provides physical facilities for high performance research computing clusters, and offers ongoing administration and support of such services. Services include:

- High performance computational cluster
- Pre-award IT consultation
- Server hosting and administration
- Database hosting and administration
- Data storage
- Backup

#### *Help Desk*

The Help Desk, administered by PerceptIS, provides technical computing support. Services include:

- Troubleshooting and technical assistance through e-mail, telephone, and walk-ins
- 24 x 7 phone support
- Online knowledge base
- Dispatching, if necessary, of technical assistants to campus locations to resolve user problems.

#### *A to Z of ITS*

For a comprehensive list of ITS services, applications, and policies, please go to <http://www.case.edu/its/services/A-Zindex.htm>.

*\*Updated 9/1/05*