

ANIMAL CARE AND USE COMMITTEE INVESTIGATION PROCEDURES

No.: _____

Original: April 2003

Authority: 7 U.S.C § 2132
7 U.S.C. § 2143(b)
9 C.F.R. § 2.31-2.32
Wis. Admin. Code Ch. UWS 6
Wis. Admin. Code Ch. UWS 13

I. STATEMENT OF POLICY

The Animal Care and Use Committee (ACUC) is dedicated to ensuring the humane and effective use of animals in all activities at or under contract with the University of Wisconsin-Milwaukee (UWM). Under UWM's Assurance of Compliance (Assurance) with the U.S. Public Health Service, the ACUC is responsible for ensuring that UWM conforms with the Animal Welfare Act (AWA) and other federal statutes and regulations relating to the care of animals, research protocols, and Animal Care Program (ACP) Policies (<http://www.uwm.edu/Dept/EHSRM/ACP/POLICIES/index.html>). Therefore, any faculty member, staff member, or other individual who has knowledge of a suspected violation of the applicable laws or policies should direct that complaint to the ACUC for investigation.

II. DEFINITIONS

- A. Complaining Party. The term complaining party refers to the person who feels aggrieved by the facts giving rise to the complaint or dispute and/or the person reporting the facts giving rise to the complaint or dispute.
- B. Responding Party. The term responding party refers to the person who is allegedly responsible for creating the circumstances giving rise to the complaint or dispute.

III. INVESTIGATIVE SCOPE

- A. Potential issues for investigation by the ACUC include, but are not limited to:
 - 1. Neglect or cruelty to research/teaching animals
 - 2. Conducting research/teaching on or with animals outside of regulatory oversight

3. Non-adherence to specific and previously agreed upon policies and guidelines, training or other restrictions imposed by the ACP on a specific protocol
 4. Non-adherence to the written protocol (e.g. buying animals on an approved protocol and using them in unapproved projects)
 5. Repeated minor infractions
 6. Inadequate record keeping
 7. Unapproved changes in procedures, including drugs used and post-operative care
 8. Inadequate training of personnel
 9. Unapproved changes in personnel
- B.** The ACUC's authority to investigate such matters has been delegated to it by the Chancellor under the authority of Chs. UWS 6 and 13 of the Wisconsin Administrative Code.

IV. INVESTIGATIVE PROCEDURE

The procedures by which the ACUC will investigate reports or complaints of potential violations are as follows:

- A.** The ACUC will receive all written and verbal complaints from either internal or external sources. Any complaint that is received individually by ACUC members will be immediately referred to the ACUC.
1. Any verbal complaint will be referred to the Chair or the Research Animal Veterinarian, who will contact the complaining party and summarize his/her complaint in writing.
 2. No employee or ACUC member shall be discriminated against or be subject to any reprisal for reporting violations of any regulation or standards under the ACUC's purview. (Also see 9 C.F.R. §2.32(c)(4))
 3. If a complaint is lodged against an ACUC member, that member shall recuse him/herself from all proceedings concerning that complaint. That member shall then be treated in the same manner as any other subject of a complaint.
- B.** The ACUC will review all complaints to determine if they are in good form. A complaint is considered in good form if it:
1. Adequately identifies the complaining party and the subject(s) against whom the complaint is directed.
 2. Identifies the alleged misconduct and describes it with sufficient specificity to allow for rebuttal from the party against whom the complaint is lodged.

3. Identifies existing evidence so that the ACUC may determine if the complaint warrants further investigation.
 4. Provides names and contact information of additional persons, if any, who are capable of providing supporting testimony.
- C.** Any complaint not in good form can be dismissed or returned to the complaining party for clarification as the ACUC sees fit. The responding party shall be notified of the ACUC's decision on the form of the complaint.
- D.** Any complaint returned for clarification must be returned to the ACUC within 10 days or be dismissed.
- E.** The ACUC may suspend an activity pending investigation of a complaint. An "activity" means any project or protocol that involves animals, including, but not limited to, research, research training, experimentation, biological testing and related activities, teaching, and intended or actual observation. The ACUC may suspend an activity that occurs at another institution pursuant to a contract with UWM. The ACUC may also suspend an activity regardless of the species or source of funding. The UWM University committee shall be informed of all activity suspensions involving faculty members.
1. A majority of ACUC members must be present to establish a quorum for a vote on a suspension. A vote for suspension requires a majority vote from that quorum. A suspension may be imposed pending investigation or at the conclusion of an investigation as provided by section M(1) below.
 2. If the ACUC suspends an activity involving animals, the Institutional Official in consultation with the ACUC shall review the reasons for suspension, take appropriate corrective action, and report that action with a full explanation to the Office of Laboratory Animal Welfare (OLAW), the Animal and Plant Health Inspection Service APHIS (APHIS), and any federal agency funding that activity. The "Institutional Official" is an individual who signs, and has the authority to sign, the institution's Assurance, making a commitment on behalf of the institution that the requirements of the Public Health Policy on Humane Care and Use of Laboratory Animals will be met. (Also see 9 C.F.R. § 2.31(d)(6)-(7) and Public Health Service Policy on Humane Care and Use of Laboratory Animals IV(C)(6)-(7))
- F.** If the activity forming the basis for the complaint constitutes a failure to correct "significant" deficiencies identified in the ACUC's mandatory reports to the Institutional Official under 9 C.F.R. § 2.31(c)(3), the failure to adhere to the report's specific plan and schedule for correction shall be reported in writing within 15 business days by the Institutional Official to

APHIS and any federal agency funding that activity. A “significant” deficiency is one that is or may be a threat to the health or safety of the animals.

- G.** Once a complaint is determined to be in good form, the full ACUC will designate an investigator from its members or an investigating committee of up to three (3) of its members to investigate the complaint. No person designated as an investigator or a part of an investigating committee may vote as part of the ACUC action on an investigation which that person conducted.
- H.** If information from a person is relevant to a complaint, and that person is deemed by the investigator or investigating committee to be potentially vulnerable to actions that a party to the complaint might undertake, the investigator or investigating committee shall attempt, to the extent permissible by federal and state law, to maintain the confidentiality of the source of information and otherwise protect the person from undue pressures. When that goal comes in conflict with a person’s right to confront an accuser or cross-examine a witness, however, the latter rights shall prevail. All persons providing information to the investigator or investigating committee shall be informed of this provision.
- I.** In investigating the complaint, the ACUC investigator or investigating committee should:
 - 1. Interview the complaining party.
 - 2. Remind the complaining party:
 - a. to respect the confidentiality and privacy concerns of all individuals involved in the complaint or dispute and participating in the investigation, to the extent permitted under state and federal law; and
 - b. not to obstruct or attempt to inappropriately influence the investigation.
 - 3. Interview all individuals identified by the complaining party as having knowledge of facts relevant to the complaint.
 - 4. Review all documents or other information identified or supplied by the complaining party as relevant to the complaint.
 - 5. Interview the responding party and specifically apprise her or him of the allegations contained in the complaint.
 - 6. Remind the responding party:
 - a. not to engage in any form of retaliation against the complaining party or any individual providing assistance with the investigation to the complaining party or investigator;

- b. to respect the confidentiality and privacy concerns of all individuals involved in the complaint and participating in the investigation, to the extent permitted by state and federal law.
 - c. not to obstruct or attempt to inappropriately influence the investigation; and
 - 7. Interview all individuals identified by the responding party as having knowledge of facts relevant to the complaint.
 - 8. Review all documents or other information identified or supplied by the responding party as relevant to the complaint or dispute.
 - 9. Interview any other individuals or review any other materials identified during the course of the investigation as having relevance to the complaint or dispute, and which the investigator reasonably believes is relevant.
- J.** At the conclusion of the investigation, the investigator or investigative committee should prepare a written report within 45 days of commencing the investigation that:
- 1. Summarizes the nature of the complaint or dispute.
 - 2. Summarizes steps taken during the course of the investigation.
 - 3. Makes specific findings of fact.
 - 4. Where appropriate and feasible, the investigator should attach all relevant documentary materials, excluding the investigator's personal notes or drafts of the report, supporting the findings of fact and reviewed during the course of the investigation.
 - 5. Neither the investigator/investigating committee nor the report should draw any conclusions regarding the lawfulness of conduct giving rise to or involved in the complaint or dispute
- K.** Following the investigation, the investigator or investigating committee shall present the report to the full ACUC. After reviewing the investigator or investigating committee's report and consulting with the investigator or investigating committee, the ACUC shall:
- 1. Review the information and materials to determine if the investigator/investigating committee should perform any additional investigation. If the ACUC requires additional information, it shall direct the investigator/investigating committee accordingly.
 - 2. In the case of a complete report, draft conclusions, which shall state whether there has been a violation of an established protocol, the Assurance, ACP Policies, and/or the AWA and/or other federal statutes and regulations, and, if there has been a violation, which makes recommendations for remedial action consistent with faculty and academic staff policies and procedures.

- L.** The ACUC's findings and recommendations shall be provided to the individual who is the subject of the complaint, the complaining party, and the dean of the individual's school or college. If a faculty member is the subject of the complaint, the findings and recommendations shall also be provided to the UWM University Committee.
- M.** If the ACUC determines that policies have been violated, it may recommend actions to the dean of the individual's school or college including but not limited to:
1. A period of suspension or continuation of an initial suspension, under section E, above, of some or all of an individual's ability to use animals in research until it is clear that the personnel and procedures can be brought into compliance.
 - a. The individual whose ability to use animals in research was suspended shall make a written request to the ACUC Chair in order to have the suspension revoked. In that written request, the individual shall provide documentary or other proof that the deficiencies identified in the suspension decision have been corrected.
 - b. A written request to revoke a suspension shall be made at least two weeks before the next quarterly ACUC meeting.
 - c. If a written request to revoke a suspension is timely received, the ACUC shall consider that request at its next quarterly meeting.
 - d. The procedures in section E above shall apply in order to continue or revoke a suspension.
 2. Any other appropriate actions to correct the problem and prevent recurrence.
 3. Notification to appropriate state, federal and local regulatory agencies as well as the notification of any and all funding agencies, including APHIS, under 9 C.F.R. § 2.31(c)(3).
 4. Formal discipline in accord with UWM Policies and Procedures (UWM P&P), Academic Staff Policies & Procedures (AS P&P), or Wis. Admin. Code Chs. UWS 14 and 17.
- N.** If the ACUC's recommendation includes formal discipline, the discipline must be considered and implemented through an additional process, depending on the employment classification or status of the person who is to receive the discipline. The following briefly describes the appropriate process for each classification and status. Each party or body who receives the matter from the ACUC shall handle the matter in an efficient

manner that, to the extent possible and permitted by state and federal law, protects the confidentiality of the involved parties.

1. Academic Staff: The ACUC shall forward a copy of the complaint and its findings of facts, conclusions, and recommendation to the dean or division head of the Academic Staff member's school, college, or division for implementation pursuant to Wis. Admin. Code § UWS 13.01 and AS P&P Chapter 111.6
 2. Classified Employees and Graduate Assistants: The ACUC shall refer a copy of the complaint and its findings of facts, conclusions, and recommendation to the employee's immediate supervisor for implementation consistent with the following authority, as applicable: a collective bargaining agreement; rules of the Secretary of the Department of Employment Relations and Division of Merit Recruitment and Selection; and UWM policies and procedures.
 3. Faculty: The ACUC shall forward a copy of the complaint and its findings of facts, conclusions, and recommendation to the University Committee in the form of a complaint pursuant to UWM P&P 5.42-5.47.
 4. Limited Term Employees and Student Employees: The ACUC shall refer a copy of the complaint and its findings of facts, conclusions, and recommendation to the employee's immediate supervisor for implementation.
 5. Students: The ACUC shall forward a copy of the complaint and its findings of facts, conclusions, and recommendation to the academic misconduct hearing committee or nonacademic misconduct hearing committee pursuant to Wis. Admin. Code Chs. 14 and 17.
- O.** If the ACUC's recommendation includes dismissal from employment, the dismissal must be considered and implemented through an additional process, depending on the employment classification of the employee. The following briefly describes the appropriate process for each classification. Each party or body who receives the matter from the ACUC shall handle the matter in an efficient manner that, to the extent possible and permitted by state and federal law, protects the confidentiality of the involved parties.
1. Academic Staff: The ACUC shall refer a copy of the complaint and its findings of facts, conclusions, and recommendation to the employee's Dean or Division Head for implementation pursuant to UWM AS P&P Chapter 109 and Wis. Admin. Code Ch. UWS 11.
 2. Classified Employees and Graduate Assistants: The ACUC shall refer a copy of the complaint and its findings of facts, conclusions, and recommendation to the employee's supervisor for

implementation consistent with the following authority, as applicable: a collective bargaining agreement; rules of the Secretary of the Department of Employment Relations and Division of Merit Recruitment and Selection; and UWM policies and procedures.

3. Faculty: The ACUC shall forward a copy of the complaint and its findings of facts, conclusions, and recommendation to the University Committee in the form of a complaint pursuant to UWM P&P 5.21-5.28.
4. Limited Term Employees and Student Employees: The ACUC shall refer a copy of the complaint and its findings of facts, conclusions, and recommendation to the employee's immediate supervisor for implementation.

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