Meeting Synopsis:

1. Call to order
2. Approval of the minutes from October 7th, 2015
3. Presentation from Dr. Bob Charlson
4. Completion of the Catalyst survey wording and plans for evaluating responses
5. Presentation by Anne Ackenhusen on research misconduct process and changes in federal regulations (Director of Office of Scholarly Integrity)
6. Beginning discussion of potential changes to EO61 (UW research and scholarly misconduct policy)
7. Good of the order
8. Adjourn

1) Call to order

Rosenfeld called the meeting to order at 9:02 a.m.

2) Approval of the minutes from October 7th, 2015

The minutes from October 7th, 2015 were unanimously approved.

3) Presentation from Dr. Bob Charlson

Dr. Charlson (Professor Emeritus, Atmospheric Sciences) was present to brief the FCR on a display he would like funded for the UW’s many historical patent contracts.

Charlson explained he joined the UW faculty in 1965, and during his time with the university conducted extensive research in environmental engineering, atmospheric sciences, and with the chemistry department, before retiring in 1998.

He explained that ten years in the past he ran into old “patent prototypes” owned by the University of Washington. He desired to archive these patents somewhere within the UW network, given their historical value to the institution, but after searching, found that there was no office on campus wherein they could be displayed or stored. He noted the first patent on behalf of the UW was a propeller design for large seagoing tug boats - a design is still in use today, almost a hundred years after its invention.
Charlson noted he underwent a search for all the patents at the UW, and there were 75 patents gathered. He noted Fred Holt (Director, UW Strategic Initiatives) had the idea of creating some kind of physical showcase for these patents. Charlson explained that an article was published in 2012 about the first patent (mentioned above). He went on, noting that Paul Jenny (Vice Provost, Planning and Budgeting) then set up a committee to look into the showcase idea and create a report on this. The effort was finalized in 2013, and went to the Provost’s Office at that time. Charlson explained nothing has happened since. He noted he has met with President Cauce, who explained the showcase idea - though a good idea - is too expensive to implement at this time.

Charlson explained that the University of Minnesota has a physical outdoor display of university patents, highly-sought papers, Nobel prizes, and so on. He explained the historical and technical importance of these patents is invaluable, yet few faculty, staff, or students know about them. He noted there are a number of places where the display could be housed, mentioning that the outdoor pathway adjacent to Husky Stadium would benefit largely from this style of ornamentation. Charlson explained one amount quoted for the cost of the display was just under one million dollars.

Rosenfeld noted the patent display is something that is very feasible and would go a long way in showcasing the innovation of the University of Washington. He noted the display could also foster a more positive relationship between the UW and the Washington State Legislature, especially in showcasing the UW’s historical value and continuing positive impact on the State. He noted a Class C resolution from the FCR might be one way to bolster administrative support for the display.

It was suggested that Charlson also make his presentation at the UW Alumni Association. A member recommended the UW libraries also be briefed on the effort.

Charlson noted in conclusion that he is positive the university could find the money to implement a landmark display of this kind, and explained there would be value in the tens of thousands of people who would see it every day.

Charlson was thanked for his presentation, and left the meeting.

4) **Completion of the Catalyst survey wording and plans for evaluating responses**

Rosenfeld reminded the council of its charge from the ABB Review Committee and the Senate Committee on Planning and Budgeting (SCPB) to investigate the impacts of ABB (Activity-based Budgeting) on educational collaboration at the UW. He noted he has finalized an introductory memo to be included with the FCR Catalyst survey on educational collaboration, and explained he would like to finalize this survey and the memo to be broadcasted before Thanksgiving, if possible.

After some discussion of varied faculty understandings of ABB and its impacts, Rosenfeld explained the survey is designed to only get a sense of faculty perceptions. He explained that he is especially
interested in if faculty who have been explicitly told not to enter into collaborative research endeavors, which may be revealed in survey responses.

Rosenfeld explained that the survey will be very brief (three multiple choice questions, and one long answer question), and its simplicity will help the council get to the core of the questions it is charged to investigate. There was a recommendation to make a “neutral answer” option for questions. There was also a recommendation to include the date of implementation of ABB at the university. Rosenfeld noted this would be incorporated.

The council finalized additional aspects of the survey, and it was noted any further comments should be forwarded electronically.

5) Presentation by Anne Ackenhusen on research misconduct process and changes in federal regulations (Director of Office of Scholarly Integrity)

Rosenfeld explained the original Executive Order (EO) No. 61 covered Research and Scholarly Misconduct and associated procedures. He explained this was last amended in 2003, but a large change in federal regulations occurred in 2005. He noted the UW was behind in amending its EO to achieve compliance with new federal regulations, and now, revisions to EO 61 have been completed. He explained the council’s task is to review the changes and make a recommendation back to the Senate Executive Committee (SEC) as part of the faculty senate’s mandated review of new executive orders.

Rosenfeld explained Anne Ackenhusen (Director, Office of Scholarly Integrity) is present to give some background on federal regulations, and to brief the council on the changes to EO 61, and has brought a PowerPoint presentation for this purpose (Exhibit 1). Ackenhusen introduced herself and explained she is the Director of the Office of Scholarly Integrity. She noted she is not housed in the UW Office of Research, but instead reports to Cheryl Cameron, Vice Provost of Academic Personnel. She noted her office’s sole task is to respond to research misconduct allegations.

Ackenhusen explained every federal agency that applies for or receives federal support for research must have written policies and procedures for addressing allegations of research misconduct (that meet federal requirements), though these policies/procedures may differ from each other. She noted many federal departments have different policies on research misconduct.

Definition

Ackenhusen explained the basic definition of research misconduct is: “fabrication, falsification or plagiarism in proposing, performing, or reviewing research, or in reporting research results.” The council held some discussion of the most common cases of research misconduct, with some members noting plagiarism of another researcher’s work is often the most common. Ackenhusen went on, noting that research misconduct does not encompass “honest error or differences of opinion.” She explained
another requirement for an action to be considered research misconduct is that the action “must be a significant departure from accepted practices of the relevant research community.”

Ackenhusen explained the research misconduct process is multi-step and time-consuming, and consists of Preliminary Assessment, Inquiry/Sequestration, Investigation, and Decision.

Preliminary Assessment

- Determines whether an inquiry is warranted
- **Key questions:** Does the allegation fall within the definition of research misconduct? Is the allegation sufficiently credible and specific so that potential evidence of research misconduct may be identified?
- If the answer to both questions is “yes,” the matter goes on to inquiry
- If the answer to either question is “no,” the matter is concluded at this stage

Ackenhusen noted preliminary assessment occurs when the allegation first comes to her office, at which point the individual alleging misconduct is asked what the infraction has been. She explained there must be sufficient, specific evidence of misconduct.

Sequestration

- Sequestration of research records and evidence is required either before or when respondent is notified of the research misconduct allegation
- Sequestration involves obtaining custody of all research records and evidence needed to conduct the research misconduct proceeding, inventorying them, and maintaining them in a secure manner
- If additional research records or evidence are discovered during the course of the proceeding, these also must be sequestered

Rosenfeld and other council members noted this is an area of the research misconduct process where many faculty do not have knowledge of their rights versus the rights of the university, being that sequestration of records and evidence may occur without a search warrant. There was a desire this information be more widely disseminated to the UW community.

Inquiry

- Determines whether an investigation is warranted
- **Key questions:** Is there a reasonable basis for concluding this is a research misconduct allegation? Does preliminary information-gathering and preliminary fact-finding from the inquiry indicate that the allegation may have substance?
If the answer to the two questions above is “yes” the matter goes on to an investigation and the federal funding agency is notified if the answer to the two questions above is “no” the matter is concluded at this stage

Requirements:
- Sequester research record and evidence on or before respondent is notified of allegation
- Notify respondent of research misconduct allegation in writing
- Conduct initial review of evidence
- Prepare inquiry report that meets very specific federal requirements
- Give respondent an opportunity to comment on inquiry report
- Provide respondent with copy of final inquiry report

Ackenhusen noted after question that from the beginning of the process, a respondent may have an attorney with them. Rosenfeld asked how confidentiality can be protected in the age of social media. It was noted the inquiry is conducted in a low-key manner so that others are not made aware of the allegation.

Rosenfeld questioned how to tell if the complaint is legitimate, or a personal attack. Ackenhusen explained they base this on the evidence. There was question of if there is an obligation to report research misconduct if one was to witness it. Ackenhusen noted there is no such regulation in the original or proposed EO 61.

Investigation

- Determines whether research misconduct occurred
- **Key questions:**
  - Was there falsification, fabrication or plagiarism in proposing, performing, or reviewing research, or in reporting research results?
  - Was there a significant departure from accepted practices of the relevant research community?
  - Was the misconduct committed intentionally, knowingly, or recklessly?
  - Was the allegation proven by a preponderance of the evidence?
- Only if all four questions are answered “yes” can research misconduct be found
- **Requirements:**
  - Include as participants in the investigation “persons with appropriate scientific expertise” who do not have a conflict of interest
  - Sequester additional records, if needed
  - Examine relevant research records and evidence
  - Interview respondent, complainant and witnesses
  - Pursue significant issues and leads
  - Draft investigation report that meets very specific federal requirements
  - Give respondent an opportunity to comment on draft investigation report
  - Consider respondent’s comments
• Prepare final investigation report, which is provided to respondent and federal funding agency
• Notify federal funding agency whether institution accepts the investigation’s findings, and of any pending or completed administrative actions against respondent

Ackenhusen explained that the investigation phase of the research misconduct process includes the dean of the affected school, college, or campus being responsible for appointing an Advisory Committee to advise on the issue of research misconduct, with the dean making the final research misconduct decision.

There was a question of what would occur there is a presumed conflict of interest with one of the Advisory Committee members. It was noted this would be investigated, and if necessary, another person would be located to serve.

Ackenhusen noted all of the information highlighted is within EO 61. Rosenfeld noted he would like to process this information, and send the PowerPoint to the members of the council who were not present. He noted the council will make a final recommendation on EO 61 to the Senate Executive Committee. He explained if the council does have concerns, these will be circulated and forwarded to Ackenhusen’s office. Ackenhusen noted her office appreciates the input, and has received suggestions from senate leadership. She explained her office is open to conversation.

The council thanked Ackenhusen for her presentation, and she left.

6) Beginning discussion of potential changes to EO61 (UW research and scholarly misconduct policy)

Missed due to time constraints.

7) Good of the order

Missed due to time constraints.

8) Adjourn

Rosenfeld adjourned the meeting at 10:30 a.m.

Minutes by Joey Burgess, jmbg@uw.edu, council support analyst

Present: Faculty: Eliot Brenowitz, Chuck Frevert, Gina-Anne Levow, Michael Rosenfeld (chair), Tueng Shen, John Slattery, Daniel Vogt
Ex-officio representatives: Roy Taylor, Diana Louden, Jennifer Harris
Guests: Anne Ackenhusen, Bob Charlson

Absent: Faculty: Donald Chi, Mark Haselkorn, Benjamin Marwick, Juliet Shields
President’s designee: Mary Lidstrom
Ex-officio representatives: N/A

**Exhibits**
Exhibit 1 – Research Misconduct Process PowerPoint--Ackenhusen 11 18 2015
INSTITUTIONAL RESEARCH MISCONDUCT PROCESSES
Federal Regulatory Requirements

Office of Scholarly Integrity
Presentation to Faculty Council on Research
November 18, 2015
Federal requirement:

Every institution that applies for or receives federal support for research must have written policies and procedures for addressing allegations of research misconduct that meet federal requirements.

What is research misconduct?

• Fabrication, falsification or plagiarism in proposing, performing, or reviewing research, or in reporting research results

• Research misconduct does not include honest error or differences of opinion

42 CFR § 93.103, Public Health Service Policies on Research Misconduct (“PHS Policy”)  
45 CFR § 689.1, National Science Foundation Research Misconduct Policies (“NSF Policy”)
A finding of research misconduct requires:

• Fabrication, falsification or plagiarism in proposing, performing, or reviewing research, or in reporting research results;

• A significant departure from accepted practices of the relevant research community;

• The misconduct be committed intentionally, knowingly, or recklessly; and

• The allegation be proven by a preponderance of the evidence

42 CFR § 93.104, PHS Policy; 45 CFR §§ 689.1 & .2(c), NSF Policy
Overview of Research Misconduct Process

- Preliminary Assessment
- Inquiry/Sequestration
- Investigation
- Decision

Final Report to Federal Granting Agency
(which can review institution’s research misconduct proceeding)

42 CFR Part 93, PHS Policy
Preliminary assessment:

- Determines whether an inquiry is warranted

Key questions

- Does the allegation fall within the definition of research misconduct?
- Is the allegation sufficiently credible and specific so that potential evidence of research misconduct may be identified?

- If the answer to both questions is “yes,” the matter goes on to inquiry

- If the answer to either question is “no,” the matter is concluded at this stage

42 CFR § 93.307(a), PHS Policy
Sequestration:

- Sequestration of research records and evidence is required either before or when respondent is notified of the research misconduct allegation.

- Sequestration involves obtaining custody of all research records and evidence needed to conduct the research misconduct proceeding, inventorying them, and maintaining them in a secure manner.

- If additional research records or evidence are discovered during the course of the proceeding, these also must be sequestered.

42 CFR § 93.305, PHS Policy
Inquiry:

• Determines whether an investigation is warranted

• Key questions
  • Is there a reasonable basis for concluding this is a research misconduct allegation?
  • Does preliminary information-gathering and preliminary fact-finding from the inquiry indicate that the allegation may have substance?

42 CFR §§ 93.307(d), PHS Policy. See also 45 CFR § 689.2(b), NSF Policy
Inquiry (cont’d.):

• Requirements:
  • Sequester research record and evidence on or before respondent is notified of allegation
  • Notify respondent of research misconduct allegation in writing
  • Conduct initial review of evidence
  • Prepare inquiry report that meets very specific federal requirements
  • Give respondent an opportunity to comment on inquiry report
  • Provide respondent with copy of final inquiry report

42 CFR §§ 93.307-.309, PHS Policy
Inquiry (cont’d.):

• If the answer to the two questions above is “yes”
  • the matter goes on to an investigation and
  • the federal funding agency is notified

• If the answer to the two questions above is “no”
  • the matter is concluded at this stage

42 CFR §§ 93.307(d) & .309, PHS Policy
Investigation:

• Determines whether research misconduct occurred

• Key questions
  • Was there falsification, fabrication or plagiarism in proposing, performing, or reviewing research, or in reporting research results?
  • Was there a significant departure from accepted practices of the relevant research community?
  • Was the misconduct committed intentionally, knowingly, or recklessly?
  • Was the allegation proven by a preponderance of the evidence?

Only if all four questions are answered “yes” can research misconduct be found

42 CFR §§ 93.103-.104, PHS Policy. See also 45 CFR §§ 689.1-.2(c), NSF Policy
Investigation (cont’d.):

Requirements

- Include as participants in the investigation “persons with appropriate scientific expertise” who do not have a conflict of interest
- Sequester additional records, if needed
- Examine relevant research records and evidence
- Interview respondent, complainant and witnesses
- Pursue significant issues and leads
- Draft investigation report that meets very specific federal requirements
- Give respondent an opportunity to comment on draft investigation report
- Consider respondent’s comments
- Prepare final investigation report, which is provided to respondent and federal funding agency
- Notify federal funding agency whether institution accepts the investigation’s findings, and of any pending or completed administrative actions against respondent

42 CFR §§ 93.310, .312-.313, .315, PHS Policy
Federal oversight:

Federal funding agency may conduct review of institutional research misconduct proceeding which may include:

• Consideration of institution’s reports, findings, research records, and evidence
• Determination of whether institution conducted proceedings in timely and fair manner in accordance with federal regulations with sufficient thoroughness, objectivity, and competence to support the conclusions
• Obtaining additional information or material from institution, respondent, complainant or others
• Conducting additional analyses and developing evidence
• Deciding whether research misconduct occurred and, if so, who committed it
• Finding research misconduct and proposing federal agency administration action

42 CFR § 93.403, PHS Policy
Other federal requirements:

• Confidentiality: “Disclosure of the identity of respondents and complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective and fair research misconduct proceeding, and as allowed by law.”

• Allocation of burden of proof

• Instances where destruction, absence of, or respondent’s failure to provide research records adequately documenting the questioned research is considered to be evidence of research misconduct

42 CFR § 93.108(a); 42 CFR § 93.106, PHS Policy
Other federal requirements (cont’d.):

• Take precautions to ensure individuals responsible for carrying out research misconduct process do not have a conflict of interest with participants in process
• Take all reasonable and practical steps to protect persons involved in research misconduct process and to protect them from retaliation
• Take all reasonable and practical steps to ensure cooperation of persons affiliated with institution in research misconduct process
• Make all reasonable and practical efforts, if requested and appropriate, to protect or restore respondent’s reputation if research misconduct not found
• Take prompt interim measures to protect public health, federal funds and equipment, and integrity of research process

42 CFR Part 93, PHS Policy
Other federal provisions:

• Definitions of many of the key research misconduct terms
• A statute of limitations preventing the pursuit of research misconduct that is more than 6 years old, with certain exceptions

42 CFR §§ 93.200-.227; 42 CFR § 93.105, PHS Policy
Questions?

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