

## ○ Regulations Regarding the Operation of the Reporting System for Misconduct Pertaining to Public Research Funds, Etc.

Regulation 920

Partially revised April 1, 2015 and April 1, 2016

### Purpose

**Article 1.** The purpose of these Regulations is to stipulate the way to operate the system for receiving and handling reports from within and outside of the University (hereinafter, “Report(s)”) in accordance with Article 17 of the Hosei University Guidelines for Preventing Misconduct Relating to Public Research Funds, Etc. (hereinafter, “Guidelines”).

### Contact Point for Receiving Reports

#### **Article 2.**

1. The contact point for receiving Reports shall be a lawyer designated by the Audit Office and the President (hereinafter, “Lawyer”).
2. Upon receipt of a Report, the Lawyer shall notify the Audit Office of the content of the Report.
3. Upon receipt of a Report, the Audit Office shall promptly notify the whistleblower in writing that the Report has been received. As for Reports received by the Lawyer, the Lawyer shall promptly notify the whistleblower in writing that the Report has been received.

### Reporting

#### **Article 3.**

1. Anyone having a concern or suspicion about possible misuse of public research funds, etc. may report such concern or suspicion to either of the contact points in writing, via facsimile, electronic mail, or telephone, or in person.
2. Whistleblowers must, in principle, provide their name when reporting.

### Whistleblowers

**Article 4.** Persons who are eligible to report under the University’s reporting system shall be faculty and staff of the University and other persons related to the University (hereinafter, “Faculty and Staff, etc.”) as well as business operators and other external persons (hereinafter, “External Party(ies)”).

### Making Efforts to Report

**Article 5.** In the case where whistleblowers determine that an illegal act has been, is being, or is likely to be committed, they shall, no matter whether they themselves are involved or not, make efforts to report the case to either of the contact points in order to rectify or prevent the illegal act.

### Reporting in Good Faith

#### **Article 6.**

1. Reports on illegal acts, etc. to the contact points must be based on objective and reasonable grounds and filed in good faith. Whistleblowers shall not make reports due to their personal animosity, for the sake of their own interests, or for the purpose of defaming or slandering a particular person (such reports made without good faith are hereinafter referred to as “Unfair Report(s)”).
2. When reporting, whistleblowers must clarify the objective and reasonable grounds on which the Report is based, separating what is fact from what is their assumption formed on the basis of the grounds, and avoid asserting unsubstantiated claims, including rumors, in such a way to sound like objective facts or using expressions that are misleading.

### Investigation of Misuse

**Article 7.** Investigation of misuse of public research funds, etc. conducted in accordance with these Regulations shall comprise preliminary investigation, formal investigation, and reinvestigation.

### Preparation for Preliminary Investigation

#### **Article 8.**

1. Upon receipt of a Report or upon notification from the Lawyer that a Report has been received, the Audit Office shall promptly start collecting facts about the Report as preparation for preliminary investigation by, among others, confirming that the whistleblower named in the Report has really filed that Report and requesting

the whistleblower to submit evidence. During this process, the Audit Office may ask for the cooperation of concerned departments.

2. The Audit Office shall report the facts collected pursuant to the preceding paragraph to the Head Administrative Officer, the General Management Officer, and the Compliance Promotion Officer.

#### Preliminary Investigation

##### **Article 9.**

1. Preliminary investigation shall be conducted in any of the following cases:
  - (1) if a Report or whistleblowing is received;
  - (2) if an act reported pursuant to Article 3 hereof is determined by the Head Administrative Officer as subject to or possibly subject to grounds for disciplinary action specified in Article 47 of the University Faculty Employment Rules or Article 74 of the University Staff Employment Rules; or
  - (3) if, regardless of whether reported by a whistleblower or not, the Head Administrative Officer recognizes the possible existence of misuse based on highly reliable information and orders the implementation of preliminary investigation.
2. The Head Administrative Officer shall form a Preliminary Investigation Committee made up of persons suitable for the investigation of a particular case of misuse reported that has become subject to the preliminary investigation (hereinafter, "Investigation Case").
3. The Preliminary Investigation Committee shall investigate whether the misuse reported actually exists or not based on documents concerning the Report (including the document in which the content of the Report is recorded) and interviews with the whistleblowers and others.
4. The Preliminary Investigation Committee may interview the researcher who is suspected of misuse and has become subject to the investigation (hereinafter, "Researcher Subject to Investigation") when deemed necessary.
5. The Preliminary Investigation Committee shall report the results of the preliminary investigation to the Head Administrative Officer.
6. The Head Administrative Officer shall decide whether a formal investigation is necessary or not based on the results of the preliminary investigation reported pursuant to the preceding paragraph.
7. The Head Administrative Officer shall notify the decision made under the preceding paragraph to the fund-distributing agency relevant to the Investigation Case.
8. A decision on the necessity of formal investigation under Paragraph 6 hereof shall be made, and reporting to the fund-distributing agency under the preceding paragraph shall be completed, within thirty (30) days after the date on which the Report is received for cases to which Paragraph 1, Item (1) or (2) hereof is applicable, or from the date on which the Head Administrative Officer recognizes the possible existence of misuse for cases to which Paragraph 1, Item (3) hereof is applicable.

#### Alternative to Preliminary Investigation

##### **Article 10.**

1. If from the results of audit conducted pursuant to Article 25 of the Hosei University Guidelines for Preventing Misconduct Relating to Public Research Funds, Etc. the Head Administrative Officer recognizes the high possibility of the existence of misuse, the Head Administrative Officer may regard the audit as a preliminary investigation and decide the necessity of formal investigation.
2. The Head Administrative Officer shall notify the decision made under the preceding paragraph to the fund-distributing agency relevant to the case for which the audit (as an alternative to preliminary investigation) was conducted.
3. A decision on the necessity of formal investigation under Paragraph 1 hereof shall be made, and reporting to the fund-distributing agency under the preceding paragraph shall be completed, within thirty (30) days after the date on which the Head Administrative Officer receives the results of audit which the Head Administrative Officer decides to regard as an alternative to preliminary investigation pursuant to Paragraph 1 hereof.

#### Obligation to Cooperate with Investigation

- Article 11.** The Researcher Subject to Investigation shall assume an obligation to cooperate with the Preliminary Investigation Committee and the Investigation Committee (and the Reinvestigation Committee if formed) as well as an obligation to actively tell the truth.

#### Notice to the Researcher Subject to Investigation

- Article 12.** The Head Administrative Officer shall notify the establishment of the Investigation Committee, investigation content, and other necessary information in writing to the Researcher Subject to Investigation.

#### Investigation Committee

##### **Article 13.**

1. Upon making a decision to implement formal investigation pursuant to Article 9, Paragraph 6 or Article 10, Paragraph 1 hereof, the Head Administrative Officer shall promptly start formal investigation.
2. The Head Administrative Officer shall form a committee to conduct formal investigation (hereinafter, "Investigation Committee").
3. The Investigation Committee shall be made up of:
  - (1) General Management Officer;
  - (2) one or more faculty members appointed by the Head Administrative Officer;
  - (3) Head of the Audit Office, Director of the General Administration Division;
  - (4) one or more third parties (lawyer, certified public accountant, etc.) appointed by the Head Administrative Officer; and
  - (5) one or more others appointed by the Head Administrative Officer as necessary.
4. The committee members as listed in the preceding paragraph shall have no direct interest in the University, the whistleblower, and the Researcher Subject to Investigation.
5. The member specified in Paragraph 3 Item 1 hereof shall chair the committee.

#### Implementation of Formal Investigation

##### **Article 14.**

1. The Investigation Committee shall investigate such matters as the existence and details of misuse, the persons involved and their levels of involvement, and the amount of money misused.
2. The Investigation Committee shall notify and discuss in advance the policy, subject, method and other necessary matters concerning the formal investigation with the fund-distributing agency relevant to the Investigation Case.
3. The Investigation Committee may request the whistleblower, Researcher Subject to Investigation, and/or others concerned with the Investigation Case (hereinafter collectively referred to as "Concerned Parties") to submit related materials, prove facts, accept interviews, and/or other matters necessary for the formal investigation.
4. The Investigation Committee shall pay attention to the credibility, honor, privacy, etc. of the whistleblower and Concerned Parties who are to be investigated.
5. The Investigation Committee shall determine the case as misuse promptly when identifying even a part of misconduct in the middle of the formal investigation and report it to the Executive Council. The Head Administrative Officer shall also report it to the fund-distributing agency.
6. The Investigation Committee shall submit a report containing such information as the results of investigation, causes of the misuse, the status of the management and audit system in place for other public research funds used by persons involved in the misuse, and recurrence prevention plan (hereinafter, "Final Report") to the Head Administrative Officer within one hundred and eighty (180) days after the date on which the Report is received.

#### Opportunity of Explanation for the Researcher Subject to Investigation

**Article 15.** The Investigation Committee shall provide the Researcher Subject to Investigation with an opportunity of explanation, in writing and/or verbally, before determining whether or not misuse has been committed.

#### Decision of Whether or Not Misuse Has Been Committed

##### **Article 16.**

1. The Investigation Committee shall deliberate whether or not misuse has been committed based on the results of formal investigation and report the conclusion to the Head Administrative Officer.
2. The Head Administrative Officer shall make a decision on whether or not misuse has been committed based on the report submitted under the preceding paragraph.
3. The Head Administrative Officer shall notify in writing the decision made under the preceding paragraph to the whistleblower and the Researcher Subject to Investigation, provided, however, that Article 22, Paragraph 2 applies to the whistleblower.

#### Investigation by an External Organization

**Article 17.** If the existence of misuse is recognized evidently as the result of reliable investigation conducted by an external organization, the Head Administrative Officer may treat the conclusion of such investigation as that of formal investigation.

#### Objection

##### **Article 18.**

1. The Researcher Subject to Investigation and the whistleblower may raise an objection to the decision made by the Head Administrative Officer under Article 16 hereof.
2. When raising an objection, the Researcher Subject to Investigation and the whistleblower must submit a

completed prescribed objection form together with evidence proving the grounds of their objection (hereinafter, "Written Objection, Etc.") to the Head Administrative Officer. The whistleblower shall submit the Written Objection, Etc. through either of the contact points for receiving Reports.

3. Objection must be made within thirty (30) days after the date on which the decision is notified by the Head Administrative Officer under Article 16, Paragraph 3 hereof.
4. The Head Administrative Officer shall accept the Written Objection, Etc. after confirming that the Written Objection, Etc. submitted is complete with all the necessary information provided.
5. In addition to the above items of this article, the Head Administrative Officer may stipulate other requirements for objection as necessary.

#### Reinvestigation

##### **Article 19.**

1. Upon accepting the Written Objection, Etc. under Article 18, Paragraph 4, the Head Administrative Officer shall promptly start reinvestigation as defined in the next paragraph.
2. A Reinvestigation Committee shall be set up to verify the results of the formal investigation (hereinafter, "reinvestigation").
3. The Reinvestigation Committee shall be made up of a small number of members appointed by the Head Administrative Officer including third parties (lawyer, certified public accountant, etc.) who have no direct interest in the University, whistleblower, and the Researcher Subject to Investigation.
4. Members of the Investigation Committee may not become members of the Reinvestigation Committee for the same Investigation Case except the member specified in Article 13, Paragraph 3, Item 1.
5. The provisions from Article 14 to Article 16 shall be applied mutatis mutandis for reinvestigation. The Reinvestigation Committee may adopt any undeniable facts discovered during the formal investigation again as evidence for reinvestigation of the same case when deemed necessary.
6. The Reinvestigation Committee shall submit a report on the results of reinvestigation to the Head Administrative Officer promptly.
7. The whistleblower and the Researcher Subject to Investigation may not make an objection again to the decision made by the Head Administrative Officer based on the reinvestigation.

#### Suspension of the Execution of the Public Research Fund for the Researcher Subject to Investigation

##### **Article 20.**

1. If any fact from which it seems very likely that the Researcher Subject to Investigation is involved in misconduct is revealed in the course of investigation, the utilization of the applicable public research fund, etc. shall be suspended.
2. The utilization of the applicable public research fund, etc. may be resumed only through a formal decision by the University.
3. The Researcher Subject to Investigation shall be responsible for delay or any other harm to his/her research that may be caused by the suspension of the utilization of the applicable public research fund, etc.

#### Response to and Measures Taken Against Illegal Acts Identified

##### **Article 21.**

1. The Head Administrative Officer shall report the results of formal investigation (and reinvestigation when conducted) to the fund-distributing agency relevant to the Investigation Case within two hundred and ten (210) days after the date on which the Report is received (the same starting date of computation as stipulated in Article 9, Paragraph 8) or the date on which the Head Administrative Officer receives the results of audit (the same starting date of computation as stipulated in Article 10, Paragraph 3). The report submitted hereunder shall contain the following information:
  - (1) Disciplinary action taken against the Researcher Subject to Investigation and others involved in the misuse
  - (2) Causes of the misuse
  - (3) The status of the management and audit system in place for other public research funds in which the Researcher Subject to Investigation is involved
  - (4) Measures to prevent recurrence, etc.
  - (5) Other information as deemed necessary by the Head Administrative Officer
2. The Head Administrative Officer shall determine the case as misuse promptly when identifying even a part of misuse in the middle of the formal investigation and report it to the fund-distributing agency relevant to the Investigation Case.
3. In addition to the requirement in Paragraph 2 above, the Head Administrative Officer shall also make an interim report on the progress of the formal investigation upon request from the fund-distributing agency relevant to the Investigation Case.
4. In addition to the requirement in Paragraph 3 above, the Head Administrative Officer shall also submit to the

fund-distributing agency or allow it to access to information on the formal investigation, or accept its on-the-spot investigation, upon request from the fund-distributing agency, unless there is a justifiable reason to refuse such request.

#### Notification to the Whistleblower

##### **Article 22.**

1. When it is decided that an Investigation Committee will be set up, the Audit Office shall notify the whistleblower of the decision.
2. When a formal decision is made by the University based on the results of investigation by the Investigation Committee, the Audit Office shall notify the whistleblower of the decision.

#### Protection of Whistleblowers

##### **Article 23.**

1. The University shall not dismiss, terminate the worker dispatch contract, or otherwise treat in a disadvantageous manner (including, but without limitation, demotion, pay cut, and replacement with another dispatched worker) Faculty and Staff, etc. who provided whistleblowing information for the reason of their whistleblowing.
2. The University shall not discontinue transactions or otherwise treat in a disadvantageous manner any External Party who provided whistleblowing information for the reason of their whistleblowing.
3. In the case where a complaint is received from a member of Faculty and Staff, etc. who provided whistleblowing information that he/she has been or is being treated disadvantageously, the Audit Office shall investigate the facts of the complaint together with the relevant department(s) and report the results to the Head Administrative Officer.
4. Upon identifying any disadvantageous treatment against the member of Faculty and Staff, etc. as the result of the investigation conducted under the preceding paragraph, the University shall stop that treatment and examine whether or not the person(s) responsible for the treatment should be given a disciplinary punishment.

#### Confidentiality

##### **Article 24.**

1. The staff or the Lawyer at the contact points for receiving reports as well as the members of the Investigation Committee shall not disclose the name or any other personally identifiable information on whistleblowers to others except when such disclosure is required for investigation of and response to Reports.
2. All the persons involved in dealing with a particular Report, including the members of the Audit Office and cooperating departments, shall not disclose information on the content of the Report and the details of investigation to others except when such disclosure is required for investigation of and response to the Report. This requirement shall survive even after the persons leave their current office or department or the University.

#### Development and Transparent Operation of Disciplinary Regulations

##### **Article 25.**

1. Any person who has committed misconduct in the management of public research funds, etc. or who has been involved in an improper transaction(s) using public research funds, etc. shall be subject to the disciplinary provisions of the University Faculty Employment Rules or of the University Staff Employment Rules.
2. The stipulation of the preceding paragraph shall also apply to the faculty and staff of the University who violate these Regulations.

#### Publication of Investigation Results

**Article 26.** Upon recognizing the existence of misuse, the Head Administrative Officer shall publish the case within and/or outside the University, as the case may be, depending on the disciplinary punishment given in accordance with Article 48 of the University Faculty Employment Rules or Article 74 of the University Staff Employment Rules. The information to be published shall include the name(s) and affiliation(s) of the person(s) involved in the misconduct, details of the misconduct committed, the measures taken by the University before the publication of the case, the names and affiliations of the members of the Investigation Committee, and investigation method and procedure adopted. The name(s), affiliation(s) and other information on the person(s) involved in the misconduct may be kept non-disclosed if a reasonable reason exists.

#### Order for Refund Issued Pertaining to Public Research Funds, Etc.

**Article 27.** When the University is ordered by a fund-distributing agency to return the portion of a public research fund, etc. misused as the result of reporting to the agency done pursuant to Article 21 (hereinafter, "Refund"), the Head Administrative Officer may collect a part or the whole of the Refund from the Researcher Subject to Investigation when deemed necessary. In the case where there is any extra money that the University is ordered by the agency to pay in addition to the Refund, such extra money may also be collected from the Researcher

Subject to Investigation.

Measures to Be Taken by the University

**Article 28.**

1. When no objection under Article 18, Paragraph 1 hereof is made, or when the decision on the existence of misuse is made based on the results of reinvestigation pursuant to Article 19, the Head Administrative Officer shall notify the conclusion in the Investigation Case to the Executive Council.
2. In the case where it is determined that misuse has been committed, the Head Administrative Officer shall take corrective and recurrence prevention measures promptly.
3. Should a public research fund, etc. be found to have been misused for personal purposes or with other highly malicious intent, the Head Administrative Officer shall take legal action when deemed necessary.
4. In the case where it is determined that no misuse has been committed, the Head Administrative Officer shall take measures as necessary to protect the whistleblower, Researcher Subject to Investigation, and other concerned parties from receiving detrimental treatment.

Measures against Business Operators Involved in Misconduct

**Article 29.**

1. In the case where it is determined that misuse has been committed and when a business operator(s) is found to have been involved in the misuse, the Head Administrative Officer shall claim damages against the business operator(s) and suspend transactions for a certain period of time depending on the nature of the misuse.
2. The period of time during which transactions are suspended under the preceding paragraph shall be decided by the Head Administrative Officer by taking into consideration the period of disqualification from applying for public research funds, etc. imposed by the relevant fund-distributing agency against researchers who have committed misuse of the same nature.

Filing of Related Documents

**Article 30.** The Audit Office shall keep records and other related documents concerning investigation conducted by the committees pursuant to Articles 9, 14, and 19 in accordance with the Document Management Regulations.

Revision and Abolition of these Regulations

**Article 31.** These Regulations may be revised or abolished only by the President.

Supplementary Provisions:

1. These Regulations shall be enforced on April 1, 2007.
2. These Regulations shall be enforced on April 1, 2015, after partial revision.
3. These Regulations shall be enforced on April 1, 2016, after partial revision.

Report on the Misuse of Research Funds