

**CATCH ME IF YOU CAN  
ACADEMIC MISCONDUCT POLICY AND PRACTICE**

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During the past three (3) years Ohio University has experienced an academic and public relations “nightmare” with respect to significant issues of plagiarism in its Fritz J. and Dolores H. Russ College of Engineering and Technology (Russ College), primarily involving international graduate students. This problem has been particularly found in the Department of Mechanical Engineering, but it has also, upon an appropriate intensive internal review, involved other departments such as Chemical Engineering and Electrical Engineering and Computer Science.

I have “subtitled” this perspective as “Cultural Plagiarism” because the experience involves both international graduate students, as well as it specifically involves successful tenured faculty of international backgrounds who have contributed to the problem of “Cultural Plagiarism”. I have divided this perspective into a series of the eight (8) following points that Ohio University has faced, which are probably evident to some degree at almost every doctoral or graduate degree granting university, where a significant number of the graduate students are international students who are taught by faculty with international backgrounds. However, let me quickly note the basic cause of this problem is not limited to international students and faculty; it also deals with the academic leadership of a university including its president, provost and deans in general, and it also depends on the individual student and their assigned faculty advisors and the master’s thesis or dissertation committees in particular.

1. Ohio University’s Experience from 2004 to 2007.

Ohio University was faced with a unique experience of having a former graduate student in a masters program in the Russ College become involved in a “dispute” involving his master’s thesis with his advisor, a tenured faculty member with an international background. This led to the graduate students “investigation” of well over one-hundred (100) published masters thesis in Ohio University’s Alden Library. This further led to this graduate student essentially being an “academic whistleblower”, contacting to the Governor of the State of Ohio, the Ohio Board of Regents, Ohio University’s Board of Trustees, national and regional accrediting bodies, the local and statewide media, as well as other former graduate students accusing them of plagiarism in their masters’ theses and dissertations. Ohio University’s academic administration and those then serving as media relations personnel did not handle these “accusations” well, mostly by issuing denials and criticizing the graduate student, which, of course caused further problems later.

2. “Cultural Plagiarism”/Academic Dishonesty.

I would like to address your attention to a portion of the academic literature dealing with “Cultural Plagiarism”. Specifically, I would direct the reader to some of the more recent literature on the subject. This would first include, “Land and Discover! A Case Study Investigating the Cultural Context of Plagiarism” by Nerra Handa and Clare Power of the University of Western Sydney in Australia, (see the Journal of University and Teaching Learning Practice (JULTP) volume 2 issue 3b pg. 64-84 (2005) and “But I Wasn’t Cheating by Lise Buranen, “Perspectives on Plagiarism and Intellectual Property in Postmodern World”, Lise Buranen and Alice M. Roy, editors (Albany, NY: SUNY P 1999). Both of these articles come at the issue defined as “Cultural Plagiarism” differently, and yet both provide a very thorough discussion and perspective of the problem that essentially relates to the academic training and experience and standards of scholarships in western non-western societies, and also deal with the attitudes of international students. I recommend both of these articles to anyone who is interested in understanding the basic differences between western and non-western societies in dealing with differing academic standards or “Cultural Plagiarism”.

3. Prevention of “Cultural Plagiarism”.

Ohio University is certainly not alone in having to face these difficult problems with international students, but we have “scaled up” the issues involving over one-hundred and fifty (150) students resulting in national attention and a few anecdotal references to deal with the issues may be helpful. Besides having an Academic Honesty Rule in its Student Code of Conduct for current undergraduate and graduate students (see appendix 1) Ohio University also addresses the issue of academic honesty in the Graduate Catalog (see appendix 2). Further, as in most universities colleges, we have developed in the Russ College “Guidelines for the Format and Presentations of Thesis and Dissertations” (see cover page) [this is available upon request] appendix 3). The Russ College has also prepared a new procedure for screening thesis/dissertations for plagiarism and a statement of originality. This and other information is also available at the Russ College web site: <http://www.ohio.edu/engineering/index.cfm>. Although a “guideline” type document has been available for almost twenty (20) years, it did not prevent the “Cultural Plagiarism” Ohio University has faced recently in its Russ College. Another more recent effort has been to adopt the requirement that all graduate students in the Russ College take a technical writing seminar taught by a Russ College faculty member for 1 credit hour (syllabus available upon request). We have also adopted the requirement that all masters’ thesis and dissertations are submitted electronically. These are all subject to being reviewed by turnitin.com, which you may be familiar with, and a department/college site license which costs \$1200.00/yr. (see appendix 4), which seeks to provide an analysis of possible “plagiarism” in students academic work, and is required now before a masters thesis or dissertation will be approved. Please also review the June 6, 2006 letter from LeRoy S. Rooker of the Family Policy Compliance Office indicating colleges and universities submit student’s papers to companies like turnitin.com in a non-personally identifiable manner. This letter can be found at <http://www.nacua.org/documents/turnitinletter.pdf>. Further, Ohio University has also attempted to focus on the issue by addressing the fundamental question of assuring academic honesty on its main campus of almost 20,000 students, with 3000 graduate students (and also efforts at it seven (7) regional campuses of over 8,000 students) by developing a number of

education programs focusing on academic honesty. The Russ College has taken the lead in this with respect to the colleges; but also the Office of the Provost has taken an important serious leadership role in appointing an Academic Honesty Committee to examine the issues and recommend programs that have addressed not only "Cultural Plagiarism" but other academic honesty issues; and on September 28, 2006 Ohio University held a "Day of Discourse" entitled "The Future of Academic Honesty at Ohio University" to seek to address the issues involved (see appendix 5).

#### 4. Legal Issues/Former Graduate Students Degrees.

Ohio University has never taken any action against a former student, graduate or undergraduate for a violation of its Student Code of Conduct involving academic honesty that resulted in revocation of a degree. As a result we were faced with a unique legal issue of how to legally and appropriately deal with the growing number of allegations of plagiarism in the Russ College, both in masters theses and dissertations, with the possible disciplinary sanction of revocation of a degree.

I would first point out a very important resource provided by the article written by NACUA's own Mary Ann Connell and Donna Gurley, "The Right of Educational Institution to Withdrawal or Revoke Academic Degrees", "Volume 32 No 1 pg. 51 Journal of College and University Law. I know all of you are aware of the extraordinary scholarly efforts of many of NACUA members for the past almost fifty (50) years; and Mary Ann's and Donna's article has provided great assistance to Ohio University and my staff and I in addressing the problems we were facing. There is also other literature available in this area that is also very helpful. We were also very fortunate, if one can consider it fortunate, that two (2) of the leading cases involving disciplining former graduate students, specifically including revoking of graduate degrees, were in Ohio University's Federal Circuit Court of Appeals and the Ohio Supreme Court. They were Crook v. The University of Michigan, 8 F.2d. 88; U.S. App LEXIS 2867 (1987) before the United States Court of Appeals for the Sixth Circuit, and Waliga v. Kent State University, 22 Ohio St 3<sup>rd</sup> 55; 488 N.E. 2d 850; 1986 Ohio LEXIS 550; 22 Ohio 57 ALR 4<sup>th</sup> 1237; (1986) before the Ohio Supreme Court. Essentially both of these cases provided clear legal precedents of what a state university needs to do to provide due process in addressing the academic decision involving disciplinary action against former students, including dealing with the issue(s) of revocation of degrees. There are other cases in other jurisdictions that are also consistent with these two (2) cases, but Ohio University is fortunate to have these legal precedents in place in its particular federal and state jurisdiction. Based on these legal precedents we decided to adopt the Academic Honesty Rule currently in place for current students for former students as noted; and we also concluded we needed a separate procedure for former graduate students based on these case precedents (see appendix 6), which includes the possibility of a revocation of degree. Although the Waliga case primarily addressed the authority of an Ohio state university to revoke a degree, the Crook case did specifically address the issue of constitutional due process. The Circuit Court addressed both procedural and substantive due process issues, determining that the decision of the District Court which found in favor of the plaintiff in a very critical opinion of the University of Michigan's degree revocation procedure. With respect to procedural due process issues the Circuit Court was guaranteed by the procedural due process standards set forth in Goss v. Lopez, 419 US.565; 42 L. Ed.2d 725; 95 S. Ct. (729) (1975). Although the Circuit Court did

not set out explicit standards for procedural due process in a degree revocation; it did find the proper notice, opportunity to be heard, and cross-examination of witness standards were met. As to substantive due process the Circuit Court did overturn the District Court through the general application of the academic decision due process standards set forth in the Regents of the University of Michigan v. Ewing, 474. US. 274; 88 L. Ed. 2d 523; 106. S. Ct. 567 (1985) that involved the premise that an academic decision met the substantive due process standard if it was not “arbitrary and capricious”. Further the Circuit Court even went further noting that the hearing committees’ finding was supported by clear and convincing evidence, but this due process standard was not stated as required. As to the question of what should be considered The Warden of Prof and whether legal representation be provided, Ohio University took a perhaps “inconsistent” or at least a varied approach to the issues. Although it is certainly arguable that the “property/liberty” interest involved in the possible revocation of a degree are higher than a typical disciplinary decision, we concluded that the “preponderance of the evidence” standard would remain in place as for all types of academic dishonesty judicial actions. However, we did choose to allow legal representation. This was not on a theory that it was legally required; but on the “practical” point we fully expected the former graduate students to retain legal counsel, and that we would have much more communication and success in getting the legal counsel involved in the resolution if they could be a full participant, including representing the former graduate students at hearings. This decision has worked out well to this point.

#### 5. FERPA/Media/Public Relations.

This topic(s) could have a one (1) day seminar on management in dealing with “public relations” issues. I would only note that there is a great “difficulty” in a university today to coordinate its “public relations” with “political realities.” It was quite a “balancing act” to deal with members of the state legislature and other state officials, the board of trustees, the media, as well as the public, notwithstanding the former graduate students, all while trying to comply with FERPA. The Ohio University plagiarism story was covered by not only local, regional and state media in a great deal of detail, but also the Chronicle of Higher Education, the Wall Street Journal, the AP, and the New York Times and ABC News’s Nightline, as well as many other media outlets, who also continue to revisit the story which is not going away soon. Generally, this matter will not be over for another year or more, assuming no further litigation occurs; and we have been able to comply with FERPA and not release the names of the former graduate students involved, with a few exceptions involving information supplied to the media by the former graduate student “whistleblower”. However, an enterprising reporter who wishes to investigate the removal and replacement of particular masters thesis and dissertations in our library, or the “academic whistleblower”, may be able to identify who the former graduate students are that are affected by this problem, we will see. Generally, the publicity has been very critical, but after the revocation of one master’s degree, we did receive a favorable editorial in the Columbus Dispatch (see appendix 7)

#### 6. Current Legal Status.

As of April 30, 2007, we have had over a one-hundred and fifty (150) master thesis and dissertations reviewed for plagiarism. There have been three (3) academic committees review the plagiarism issues, including the Academic Honesty Hearing Committee, which has

reviewed thirty two (32) cases, with twenty two (22) more to review. As of this date there have been four (4) dismissals; twelve (12) have been allowed to “rewrite” their Master Thesis or Dissertations as a result of “prosecutorial discretion”, with the approval of the committees or hearings; and one (1) Masters Degree revocation as a result of a recommendation of the Academic Honesty Hearing Committee. We also have a very long way to go to resolve all the cases, which is a very slow process as one would expect; and I would expect we will not finalize with this process until the end of the 2007/08 academic year, although we have scheduled twenty (20) hearing dates for the summer to try to move the procedure along.

7. “Unintended Consequences.”

As all of you know and have experienced with the unique matters we are always dealing with, there are “intended” and “unintended” consequences resulting from issues you have to address. A couple of those involved in this matter have been that two (2) of the international background faculty members, who were the primary advisors of most of the former graduate students accused plagiarism, have filed suits against Ohio University, its Provost and the Dean of the Russ College personally. Two (2) suits are for defamation in the Ohio Court of Claims as well as one is based on a 14<sup>th</sup> Amendment claim of a denial of a “liberty interest” in federal court; and the other involves a claim of national origin discrimination filed with the Ohio Civil Rights Commission (OCRC). I will not detail the issue(s) in these cases, but the discovery in the cases deal with serious FERPA issues as all disciplinary records of the former graduate students are being provided under a Protective Order applicable in both the state and federal cases, and these last have taken an extraordinary amount of time and energy. Also, I fully expect legal challenges to any further degree revocation that may occur. We have also heard from the Inspector General’s Office of the National Science Foundation (NSF), who are interested in investigating “research misconduct” as four (4) of the students involved were supported by NSF funding.

8. Conclusion/ “Advice”.

Ohio University is a 550 million dollar operation including eight hundred and fifty (850) international graduate students, primarily in the engineering and the science fields. We are probably not different in our basic operation than many of your own institutions, however, we have “missed the boat” in recognizing the problem of “Cultural Plagiarism”, which has led us to take “catch up” steps to deal with this problem I would opine that in your role as “General Counsel”, you or your staff, in connection with your academic leaders, consider what steps you might take with your institution’s international graduate students and faculty to assure they understand how to learn about and meet proper academic standards. Finally, in meeting and dealing with a number of the former graduate students involved in this matter, everyone I have dealt with essentially denies knowledge and awareness of the academic standards that were required and suggest that they would have complied with them if they simply would have known and understood them.

Thank you, and if one would like to talk to me or others at Ohio University about our experience with “Cultural Plagiarism”, please contact me.