

## Kyushu University Rules Concerning Investigations into Unauthorized Use of Competitive Research Funds

Kyushu University Rules No. 76 of 2014

Established: December 16, 2014

Kyushu University Rules Concerning Investigation into Unauthorized Use of Public Research Funds (Kyushu University Rules No. 38 of 2007) is hereby fully amended.

### (Purpose)

Article 1 These Rules shall provide for the necessary matters relevant to the procedures, etc. for investigation of unauthorized use of competitive research funds, etc. at Kyushu University (hereinafter referred to as the "University").

### (Definition)

Article 2 In these Rules, the meanings of the terms set forth in the following items are as prescribed respectively in those items:

- (i) Competitive Research Funds, etc. means publicly solicited funds, mainly competitive funds, allocated to the University by the Ministry of Education, Culture, Sports, Science and Technology (MEXT) or independent administrative agencies under MEXT jurisdiction;
- (ii) Unauthorized use means use of the Competitive Research Funds, etc. for other purposes intentionally or through gross negligence, including requests for rewards or compensation without substance, deposits to vendors for false invoice for goods, and requests for travel expenses without substance, or use in violation of the details of the decision to grant the Competitive Research Funds and conditions attached thereto;
- (iii) Constituents means the following persons and those who used to be such persons:
  - (a) Officers and staff (including those engaged by the University under a dispatch contract);
  - (b) Undergraduate school students, graduate school students, auditors, credited auditors, and other students studying at the University;
  - (c) Research students, JSPS Research Fellowship for Young Scientists, and others engaged in research, etc. at the University.

### (A contact point for the Report)

Article 3 The University shall establish contact points for the Report in the Audit and Compliance Office and at external organizations, etc., in order to appropriately respond to reports from within and outside the University or from the person himself/herself, etc. concerning suspected unauthorized use at the University (hereinafter referred to as the "Report").

(2) A person who makes the Report suspected unauthorized use at the University (hereinafter referred to as the "Whistleblower") must clearly indicate the following matters by mail, telephone, facsimile, e-mail, or in person at contact points for the Report:

- (i) Name and contact information of the Whistleblower;
- (ii) Name of the person suspected of being involved in the unauthorized use (hereinafter referred to as the "Person being Reported");
- (iii) Details of the unauthorized use (the manner of the unauthorized use, the time period of the unauthorized use, and the name of the Competitive Research Fund, etc.);
- (iv) Reasonable reasons or grounds for unauthorized use.

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(Heading of the Report)

Article 4 The contact points for the Report shall accept the Report in which the matters listed in each item of paragraph (2) of the preceding Article are clearly indicated. However, even if the Report does not satisfy the requirements, it may be accepted if the subject of the investigation can be identified and reasonable reasons or grounds for the unauthorized use is provided.

(2) When the contact points for the Report located in an external organization, etc. of the University (hereinafter referred to as the "External Contact Point") receives the Report, its information shall be shared with the Audit and Compliance Office.

(3) When the Report is received (including when information is shared pursuant to the provisions of the preceding paragraph), the person in charge of the contact point for the Report (excluding the External Contact Point; the same shall apply hereinafter) must promptly report the content of the Report to the Executive Vice President for Research and the President. However, if the person in charge of the contact point for the Report obviously determines that the impartiality of the investigation cannot be guaranteed, such as when the Executive Vice President for Research has a direct interest in the matter of the Report, the person in charge of the contact point for the Report shall not report to the Executive Vice President for Research, but report to the Executive Vice President in charge of the matter of the reporting designated by the President after reporting to the President.

(4) When the Executive Vice President for Research (in cases where the proviso of the preceding paragraph applies, it shall be the Executive Vice President designated by the President. The same shall apply hereinafter) deems it necessary to conduct preliminary investigations into the case concerning to the Report, the Executive Vice President for Research shall have the director of Each Faculty, etc. to which the Person being Reported who is alleged to have committed unauthorized use belongs (or another staff member of the Each Faculty, etc., if it is deemed impossible to guarantee impartiality in the investigation, such as when the director of Each Faculty, etc. is the person to whom the Report pertains. Hereinafter referred to as the "Relevant Faculty Director".) conduct the preliminary investigation.

(5) The Relevant Faculty Director must conduct the preliminary investigation within 14 days from the date of receiving instructions for the preliminary investigation in principle and report the results to the Executive Vice President for Research.

(6) Upon receiving a report under the preceding paragraph, the Executive Vice President for Research shall promptly report to the President to that effect, and the Executive Vice President for Research shall give opinions to the President as to whether or not an investigation is necessary.

(7) Notwithstanding the provisions of the preceding three paragraphs, if the Executive Vice President for Research finds that the fact of unauthorized use is obvious or that the probability of unauthorized use is extremely high with regard to the content of the Report, he/she may report the fact to the President and give opinions to the President on the necessity of an investigation without going through the preliminary investigation.

(8) Based on the reports in the preceding two paragraphs, the President shall confirm the reasonableness of the content of the Report, etc., hear the opinions of the relevant Executive Vice President as necessary, determine whether or not an investigation is necessary within 30 days of receipt of the Report, and notify the Relevant Faculty Director of the necessity of said investigation, and report the organization that has allocated the Competitive Research Funds, etc. suspected of unauthorized use (hereinafter referred to as the "Allocated Organization").

(9) If the President decides to conduct an investigation pursuant to the preceding paragraph, the President shall notify the Whistleblower and the Person being Reported to that effect and request their cooperation in

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the investigation, and if the President decides not to conduct an investigation, the President shall notify the Whistleblower to that effect together with the reasons therefor.

(10) In the case of that a suspicion of unauthorized use is pointed out by the press or an external organization, etc., or in the case of that a suspicion of unauthorized use arises in an internal audit, etc., it may be handled in the same manner as if the Report had been made.

(11) In the case of the anonymous Report or in the case of the preceding paragraph, no notification to the Whistleblower as provided in paragraph (9) of this Article, paragraph (2) of Article 8, paragraph (4) of Article 9, and paragraph (7) of the same Article shall be made.

(Investigation Commission, etc.)

Article 5 When the President decides to conduct an investigation pursuant to the provisions of paragraph (8) of the preceding Article, the President shall, within approximately 30 days from the date of such decision, establish an Investigation Commission (hereinafter referred to as the "Investigation Commission") to investigate and certify the unauthorized use.

(2) Beyond what is provided in the preceding paragraph, when the President decides to conduct an investigation pursuant to the provisions of paragraph (7) of the preceding Article, the President may order the Person being Reported and other relevant persons to suspend the use of all or part of the allocated Competitive Research Funds, etc. and other research funds, as necessary.

(3) The Investigation Commission shall consist of the following members:

- (i) Executive Vice President for Research;
- (ii) The Relevant Faculty Director;
- (iii) Secretary-General;
- (iv) Director of Research and Industrial Collaboration Promotion Department;
- (v) Director of Finance Department;
- (vi) Head of Audit and Compliance Office;
- (vii) Director of Administration office of handling the affairs of Faculty, etc. set force in item (ii);
- (viii) A few outside experts, such as lawyers and certified public accountants;
- (ix) Other persons deemed necessary by the chairperson provided in paragraph (5).

(4) Notwithstanding the provisions of the preceding paragraph, a person who has a direct interest in the case that is the subject of an investigation (in the case of a person provided in item (viii) and (ix) of the preceding paragraph, including the University and the Whistleblower and the Person being Reported) may not be a member of the Investigation Commission.

(5) The Investigation Commission shall have in place a chairperson, and the Executive Vice President for Research serves in this capacity.

(6) The chairperson may have the person in charge of the department provided in Article 16, paragraph (2) attend the Investigation Commission when deemed necessary for the smooth execution of the administrative process.

(Conducting investigations)

Article 6 The Investigation Commission shall investigate whether there is unauthorized use or not, the details of the unauthorized use, the persons involved and the extent of their involvement, and the amount of the unauthorized use, etc. In conducting the investigation, the Investigation Commission must report to and consult with the Allocated Organization concerning the investigation policy, the subject of investigation and methods, and other relevant matters.

(2) The investigation shall be conducted mainly by members of the Investigation Commission provided in

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Items (ii) and (viii) of paragraph (3) of the preceding Article, who shall interview the Whistleblower, the Person being Reported and other relevant persons, and scrutinize physical evidence.

(3) In the investigation, the Investigation Commission must grant an opportunity for explanation for the Person being Reported or any other person suspected of having been involved in the unauthorized use.

(Confirmation)

Article 7 The Investigation Commission shall, within approximately 150 days from the date of establishment of the Investigation Commission, confirm whether there is unauthorized use or not, the details of the unauthorized use, the persons involved and the extent of their involvement, and the amount of the unauthorized use, etc.

(2) Confirmation set forth in the preceding paragraph must be made based on a comprehensive judgment of various evidence, including physical evidence obtained through the investigation, the defense and confession of any person suspected of having been involved in the unauthorized use, and the testimony of relevant persons.

(3) In the case where the Investigation Commission confirms that there is not unauthorized use, and the Report was pursuant to the bad faith (intention exclusively to cause damage to the Person being Reported or to disadvantage the institution/organization, etc. to which the Person being Reported belongs, such as to entrap the Person being Reported or to obstruct the research conducted by the Person being Reported ; the same shall apply hereinafter), the Investigation Commission may confirm a decision to that effect. In having this confirmation, the Investigation Commission must grant an opportunity for explanation for the Whistleblower.

(4) If, even during the process of the investigation, the fact of unauthorized use is partially confirmed, the Investigation Commission shall promptly confirm it.

(Report of confirmation, etc.)

Article 8 When the Investigation Commission confirms that pursuant to paragraphs (1), (3), and (4) of the preceding Article, the chairperson shall promptly report to the President of the University in the form of a written investigation report.

(2) If the President receives a reporting set forth in the preceding paragraph, the President shall, except in the case of falling under the provisions of paragraph (4) of the preceding Article, notify the Whistleblower, the Person being Reported (including persons other than the Person being Reported who have been confirmed to have been involved in the unauthorized use. The same shall apply hereinafter) and the Relevant Faculty Director. In principle, the notification to the Whistleblower shall be made after confirming that no appeal has been filed as stipulated in paragraph (1) of the following Article or deciding not to conduct a re-investigation as stipulated in paragraph (2) of the same Article, except in the case where the Whistleblower has been found to have made the Report in bad faith.

(Appeal)

Article 9 The Person being Reported who has been confirmed to have been involved in unauthorized use and the Whistleblower who has been confirmed to have made the Report in bad faith may, if he/she is dissatisfied with said confirmation, file an appeal within 14 days from the day following the day on which he/she received the notification referred to in the preceding Article with reasonable grounds for dissatisfaction of the confirmation or with materials sufficient to reverse the confirmation. However, even within that period, an appeal based on the same grounds may not be filed repeatedly.

(2) If the President receives an appeal under the preceding paragraph, the President shall promptly decide

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whether or not to re-investigate the case, taking into consideration the purpose and grounds, etc. for the appeal, and if the President decides to re-investigate the case, the President shall have the Investigation Commission conduct a re-investigation.

(3) When re-investigating, the President shall request the cooperation for the person who appealed, and if such cooperation is not forthcoming, the President may suspend the re-investigation. In such cases, the President shall immediately notify the chairperson to that effect.

(4) When the President decides to conduct a re-investigation pursuant to the provisions of paragraph (2), or when the re-investigation is suspended pursuant to the provisions of the preceding paragraph, the President shall notify the Whistleblower, the Person being Reported and the Relevant Faculty Director to that effect.

(5) The Investigation Commission shall decide whether or not to overturn the earlier confirmation within approximately 50 days from the date of initiation of the re-investigation (30 days for an appeal from the Whistleblower who is confirmed to have made the Report in bad faith).

(6) When the Investigation Commission has made the decision referred to in the preceding paragraph, the chairperson shall report the results to the President.

(7) If the President receives the report referred to in the preceding paragraph, the President shall notify the Whistleblower and the Person being Reported of the results of the re-investigation.

(Duty of cooperation of investigations)

Article 10 The Whistleblower, the Person being Reported and other constituents and the Administrative Office must cooperate sincerely with investigations (including preliminary investigations provided in Article 4, paragraph (4), requests for cooperation to confirm the reasonableness, etc. provided in paragraph (8) of the same Article, and re-investigations provided in the preceding Article).

(Obligation of cooperation in investigations)

Article 11 Those involved in the handling of the Report, members of the Investigation Commission and other constituents must not divulge the content of the Report, information obtained in the investigation, or any other information which they have come to know in the course of their duties.

(Protection of the Whistleblowers, etc.)

Article 12 The President and other constituents must not dismiss, demote, reduce compensation for, or give other disadvantageous treatment, etc. (including, in the case of a person engaged by the University under a dispatch contract, canceling the said contract or asking another person to replace the person. The same shall apply hereinafter in this Article.) to the Whistleblower merely because he/she has made the Report, unless it is confirmed that the Report is made in bad faith. The same shall apply hereinafter in this Article).

(2) The President and other constituents must not, unless there are reasonable grounds, partially or completely prohibit the research activities of the Person being Reported, dismiss, demote, reduce compensation for, or give other disadvantageous treatment, etc. to the the Person being Reported merely because he/she has been reported.

(3) If it is confirmed that there has been no unauthorized use, the President shall take measures to normalize the educational and research activities of the Person being Reported and other constituents and to restore their reputation, as necessary.

(Reporting to the Allocated Organization and cooperation in investigations, etc.)

Article 13 The President shall submit a final report including the results of the investigation, the factors for unauthorized use, the status of management/audit systems for other Competitive Research Funds, etc.

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involving the person who was involved in the unauthorized use and the plan for preventing recurrence to the Allocated Organization within 210 days of receipt of the Report. Even if the investigation is not completed by the said deadline, the President shall submit an interim report of the investigation.

(2) Notwithstanding the provisions of the preceding paragraph, when it be requested by the Allocated Organization, the President shall submit a progress report and an interim report of the investigation to that organization even before the deadline or the completion of the investigation.

(3) When the President receives a report pursuant to Article 8, paragraph (1) regarding the confirmation pursuant to Article 7, paragraph (4), the President shall promptly report the fact of the confirmed unauthorized use to the Allocated Organization.

(4) When Article 9, paragraph (4) applies, or when a decision is made on whether or not to overturn the earlier confirmation provided in paragraph (5) of the same Article, the President shall report to the Allocated Organization, beyond what is prescribed in the same paragraph.

(5) When requested by the Allocated Organization, the President will submit materials pertaining to the matter in question or respond to an inspection or on-site inspection conducted by the Allocated Organization, except where there is a justifiable reason, such as hindrance to the investigation.

#### (Publication)

Article 14 When unauthorized use is confirmed to have occurred, the President shall promptly publicize the names and affiliations of the persons involved in the unauthorized use, the details of the unauthorized use, the details of the measures taken by the University up to the time of publication, the names and affiliations of the members of the Investigation Committee, the methods and procedures of the investigation, and other necessary matters. However, the President may not publicize some of these matters in the cases where there are reasonable grounds.

(2) If it is confirmed that there has been no unauthorized use, the President shall not publicize in principle such confirmation. However, if the matter was leaked to outside prior to the confirmation, the President shall publicize the fact that there has been no unauthorized use and other necessary matters.

(3) If it is found that the Report is made in bad faith, the President shall publicize in principle the name of the Whistleblower and other necessary matters.

#### (Measures against unauthorized use)

Article 15 The President shall take necessary measures when the President finds it necessary to take disciplinary action or to improve the research environment in cases where unauthorized use is confirmed to have occurred or where the Report has been found to have been made in bad faith.

(2) Beyond what is provided in the preceding paragraph, legal action such as filing a criminal report or civil lawsuits may be taken if unauthorized use that has been confirmed is highly malignant, such as in the case of personal diversion or when the Report is found to be made in bad faith.

#### (Administrative affairs)

Article 16 Affairs relevant to the Report and the investigation provided in these Rules are administered by the Audit and Compliance Office with the cooperation from the divisions of the Administrative Bureau and the faculties, etc.

(2) Affairs relevant to report, etc. to the Allocated Organization as provided in Article 13 shall be administered in principle by the department that is in charge of liaison and coordination with the relevant Allocated Organization.

(3) Affairs relevant to publicizing and other necessary measures as provided in Article 14 shall be

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administered in principle by the department in charge of such affairs with the cooperation of the Audit and Compliance Office and other related departments. However, if it is difficult to do that, the relevant departments shall divide and administer the affairs based on the instructions of the Secretary-General.

(Miscellaneous Provisions)

Article 17 Beyond what is provided in these Rules, the Executive Vice President for Research shall determine the details of the procedures, etc. for investigations into unauthorized use and other matters necessary for the administration of the Investigation Commission.

(2) In principle, the provisions of these Rules shall apply mutatis mutandis to the procedures, etc. for investigations into the unauthorized use of research funds other than competitive research funds, etc.

Supplementary Provisions

These Rules come into effect as of December 16, 2014.

Supplementary Provisions (Kyushu University Rules No. 109 of 2015)

These Rules come into effect as of April 1, 2016.

Supplementary Provisions (Kyushu University Rules No. 150 of 2016)

These Rules come into effect as of April 1, 2017.

Supplementary Provisions (Kyushu University Rules No. 149 of 2018)

These Rules come into effect as of April 1, 2019.

Supplementary Provisions (Kyushu University Rules No. 61 of 2020)

These Rules come into effect as of April 1, 2021.

Supplementary Provisions (Kyushu University Rules No. 41 of 2021)

These Rules come into effect as of June 1, 2021.

Supplementary Provisions (Kyushu University Rules No. 67 of 2022)

These Rules come into effect as of April 1, 2023.

Supplementary Provisions (Kyushu University Rules No. 56 of 2024)

These Rules come into effect as of April 1, 2025.

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