



*Associated Faculties of the Universities of Maine*

4/24/2023

Dear Colleagues,

Today I write you about a serious and timely issue associated with Scientific Misconduct policy at the University of Maine. This issue is part of a larger issue of inappropriate intrusion of System General Counsel (GC) and the failure of leadership to require due process.

Later today I will be asking the Board of Trustees to launch an investigation into UMaine and UMS mishandling of a recent plagiarism case and efforts to cover up that mishandling.

This letter is lengthy as the issues are complicated and took place over nearly two years. I would be pleased to go into substantially more detail in the appropriate venue.

UMaine has a good plagiarism (scientific misconduct) policy. I think I have the most experience with this policy as I, in my AFUM role, represented two faculty accused of plagiarism over the last 25 years.

In the first case many years ago UMaine simply followed the process with integrity. The faculty member was not guilty of plagiarism.

In the case last year the University made a mockery of the policy, made a mockery of due process and rights, protected those that violated the policy and today they now seek to institutionalize that abomination of a process in a new misconduct policy that they have sent to the UMaine Senate. I note that it was not sent to UMM Governance.

The current UMaine policy is transparent and treats the accused as innocent until such time that the evidence shows a need for a formal investigation. The process, if followed, quickly gets the evidence in front of a faculty panel. The faculty panel reviews the evidence, meets with the accused and they have a discussion around the evidence. The panel deliberates and makes a recommendation to the VPR, who is normally in charge of the process. Please note for the rest of this letter that the President remains responsible for VPR to must faithfully carry out their responsibility.

We all know the damage that even an accusation of plagiarism can do to an academic career. The current policy restricts those who know about the accusation to the VPR, the faculty panel, the accused and their representative (AFUM and/or legal counsel). Note that no one on the

normal chain that is responsible for reappointment/promotion is even aware of the accusations, as it should be. If the faculty panel believes a violation occurred a more formal investigation ensues. The process should conclude in 30 days, with possibility to extend up to 60.

In the recent case mentioned above, the process took nearly a year. UMaine and UMS made many administrators and staff, none who are in the process, aware of the accusations, damaging the faculty member's reputation. The faculty member was blocked by VPR from meeting with the faculty panel until far into the process, and this meeting ultimately happened only as a result of AFUM pressure. The faculty panel cleared our colleague.

The story bifurcates here. This part is about AFUM efforts to get the President and Chancellor to require the policy to be followed. I naively expected that making them aware of the violations would result in them reading the clear language of the policy and they would intervene to require the VPR to follow the process.

This did not happen. Instead I received two letters from the past UMS General Counsel threatening me with discipline for my advocacy. In addition, the System claimed that all appeals and complaints had to go to the VPR and that the AFUM contract and grievance policies did not apply. This assertion was both new and absurd. So instead of holding the VPR accountable I was told they get to be sole judge and jury, accountable to no one. The Chancellor and President remained silent.

As I, and my counsel, believed the accusations against me to be categorically and obviously false, and the threats themselves illegal, we filed a legal action with the Maine Labor Board called a Prohibited Practice Complaint (PPC). In addition I filed a grievance associated with the threats and University behavior.

With the resignation of the then UMS General Counsel, UMS and I were able to reach agreement and I am in process of dropping the PPC once UM follows through with their obligations. While UMS does not admit fault, I am convinced an independent party would have eviscerated UM & UMS for their abysmal handling of this case. I repeatedly asked—**but UMS refused—to have an independent third party review the process and generate a report.**

I was willing to settle as I was lead to believe that the behavior of UM&UMS was an aberration and that it would not happen again, that no other faculty or staff member in UMS would be subject to what our UMaine colleague was subject to.

It takes substantial time to work out an MOU. I recall we started in December, when the past General Counsel was still present, and UMS offered only that they would let me look at and comment on a new policy. At that time I reminded them that any new policy would have to go through normal Senate process, not just that the Senate could comment upon the draft. And, of course, as AFUM Statewide President I would get a copy since AFUM has a legal interest in any changes to the policy, since these changes can represent a change in faculty working conditions as well as how the CBA (our contract) articulates with investigations that involve potential disciplinary action. With the resignation of the then General Counsel, real progress was made. In January I was asked when I wanted to see the draft policy; be that at the same time as the Senate

or before. I said I'd like to see it a week in advance if possible but the same time would be fine. My plan was to request to meet with the Senate and review some concerns and facts about what the new policy would mean. Before I could do that I, of course, needed time to read and think carefully about the draft policy. I didn't imagine it would be as self-serving and damaging as it turned out to be. After all it was written by the same group that completely mishandled the recent case and faced absolutely no consequences for their actions. According to the new policy they wrote, they never could be held accountable.

When the agreement for me to drop the PPC, among other aspects of the settlement, was finally executed in early April I was more than taken aback when UMS asked me a short time later to provide "feedback" on the legalistic and complicated document that turns the current UM policy completely on its end by April 25<sup>th</sup>. I was told the Senate had an equally short deadline to read and consider it. I later found out that UM had sent the draft policy to the Senate sometime in January and never informed me. As I was working in good faith to settle the PPC and related issues, UM actively was misleading me.

Returning to the main story line. While the plagiarism accusation was made in late Spring 2021, and the Policy required the VPR to start the process no later than September (due to summer) and the VPR failed to do so. This is just one of the many violations to the Policy the VPR allowed to occur. The President hired an outside consultant, giving him the undefined title of "Research Integrity Officer" (RIO). While the contract required him to follow the UMaine policy, he chose to do whatever he wanted to do, meeting continued resistance from AFUM, while the President failed to enforce the contract provision that he follow the policy. The VPR failed in his responsibility to carry out the policy as the consultant was given a completely free hand.

It is also critical to note that he was brought in to train UM people on how to deal with misconduct/plagiarism charges. This last point is critical as few reading the draft policy would foresee what the policy means in practice. We unfortunately got to go through what this new policy means for all of us as he conducted the process the way he thinks it should be carried out, and the way UMaine will carry the process out in the future. It is also important to note that the external consultant was charged with writing the new policy for UMaine, and potentially the entire System, locking in his vision.

I strongly suspect that the VPR's office, when presenting to the Senate, failed to explain what the policy means in practice. Allow me to correct this failure on their part:

- Instead of acting promptly and keeping the accusation closed, the RIO may launch an investigation, digging for more potential violations. The investigation may continue for some time; perhaps administrators would be notified that you are under investigation the same time you are coming up for reappointment, tenure, post-tenure review or promotion. The fact that you are under investigation may even be put into letters that go into your file permanently so you can continue to be haunted by false accusations.
- After the RIO conducts their secret investigation you will be summoned to a meeting. You will not be told what the meeting is about. All your questions will be rebuffed and you will be told that you need not prepare anything, just show up. As required by law

they will inform you that you can bring AFUM representative. They will seek to muzzle AFUM.

- When you show up you will be met by an attorney from the System office, who should have no role in the process, the RIO and VPR Director of Research Compliance (the VPR, the only one actually required and authorized under the policy, did not bother to show up). A ream of paper will be given you, copies of papers you wrote, copies of other papers that will have highlighted areas that are similar and with which you are being accused of plagiarism. As you sit there stunned, trying to make sense, the inquisitors will launch an investigation, asking you questions and keeping track of anything you say so that it can be used against you later.
- While you are in this Star Chamber<sup>1</sup>, UM staff will enter your office and take your computer where all of its contents will be copied and secured for potential use. In this latter case when the faculty member was cleared I repeatedly asked what became of his stolen data. The VPR and no one in the System ever responded. It was a requirement of mine in settling the PPC that the University attested that none of his data was viewed and the copy was destroyed.
- The violations continue as UMS then copies your emails. How far back? We don't yet know. Do they continue capturing your emails as you work with AFUM to defend yourself? We don't know that either.
- Instead of dealing with a panel of faculty directly, the RIO and his gang will interpose himself between you and the panel. Any written evidence goes to RIO, where they determine its value. The difference between your sending evidence and explaining it in dialogue with the faculty panel of your peers and this intermediary—who then interferes with the integrity of the process by declaring their view and their opinions (which are absolutely irrelevant)—is striking!

I do wish I could go into the accusations to show what an absurd stretch the RIO gang went. Imagine a common technique you use in your discipline and you have a paper saying “using this broad and general technique we study the properties of A” and having the RIO gang mark this as plagiarism because you also wrote in another paper “using this broad and general technique we study the properties of B”. I believe the choices made by the RIO gang did not fall within the bounds of honest disagreement and entered the land of malfeasance. I repeatedly asked for an independent investigation to make the determination and was repeatedly rebuked. The UMS response was always to block any effort of accountability.

The RIO sets up an improper relationship with the faculty panel, meets with them alone and presents themselves as expert, providing their opinion on the validity of the

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<sup>1</sup> “The **Star Chamber** (Latin: *Camera stellata*) was an [English court](#) that sat at the royal [Palace of Westminster](#), from the late 15th century to the mid-17th century (c. 1641), and was composed of [Privy Counsellors](#) and [common-law](#) judges, to supplement the judicial activities of the common-law and [equity courts](#) in civil and criminal matters. It was originally established to ensure the fair enforcement of laws against socially and politically prominent people sufficiently powerful that ordinary courts might hesitate to convict them of their crimes. **However, it became synonymous with social and political oppression through the arbitrary use and abuse of the power it wielded.**

In modern times, legal or administrative bodies with strict, arbitrary rulings, no ‘due process’ rights to those accused, and secretive proceedings are sometimes [metaphorically](#) called “star chambers”.<sup>[a]</sup>

From [Star Chamber - Wikipedia](#) (Emphasis added)

charges. The deck is truly stacked against the accused when they finally meet with the faculty panel, with the RIO gang looking on.

All of these “features”, and more are in the drafty plan. I did initially make an attempt to provide “feedback” on the draft plan within the unreasonably short time provided but they self-serving plan is a pile of excrement. It gives extreme discretion to the administration. Given how badly they violated the discretion they had within the current policy, I see no reason to have any confidence they are capable of acting professionally. It greatly restricts the rights of the accused and provides limited time for the accused to respond. The RIO spends months building a case, and then the accused—who is in shock—needs to navigate the restrictions imposed by the University.

I became convinced that it is useless to respond to the draft policy for the following reasons:

1. UM intentionally mislead me about when they would send the draft policy to the Senate.
2. UM mislead me that they had learned from their failures and would not seek to institutionalize the aberrant and inexcusable behavior.
3. The VPR’s office failed to be honest with the Senate on what the policy means in practice.
4. UM’s claim that changes are needed because of federal regulations is unsubstantiated. Since last December I have repeatedly asked the obvious questions: What part of our current policy is not in compliance? Show me the rules. UM & UMS have not been able to answer this question.
  - a. **I am all but convinced, but still need the facts to be sure, that UM is taking advantage of a partially true statement that our policy may need some changes to make wholesale changes and that they are not being honest about this. That the intent is to mislead the Senate and to use potential Senate approval as a weapon against AFUM when we fulfill our responsibility to defend members from the kind of abuse that would be institutionalized by this policy.**
5. **The last straw was when the policy declared it was above the CBA and indeed above the law in allowing discipline without due process and that the RIO gang is not subject to any accountability through the grievance or other process.**
  - a. The policy sets up the RIO gang to be self-policing and not subject to any independent constraints.
  - b. Given what I believe to be abysmal performance of the RIO gang in bringing some obviously false accusations of plagiarism, I believe the RIO gang should be held fully accountable to the faculty if they fail to meet minimal professional standards of competence. Instead of a policy shielding the RIO gang from any accountability, instead of the administration shielding them from responsibility, any policy needs to explicitly hold the individuals accountable for their actions. Such accountability is required if the policy is to have any integrity.

- i. Specifically the Senate Committee on Scientific Misconduct should carefully review the charges put forth by the RIO gang to determine if they cross the line from a legitimate opinion to malfeasance and professional misconduct.
  1. In this case the RIO gang was give substantial evidence that plagiarism did not occur. Yet the RIO gang discounted this compelling evidence.
- c. Given the behavior we have seen, the only way a new process will have integrity is if there is a full, open, and honest review of the University performance during the recent case. The University refuses such a process as it will be very embarrassing.

Given how horrible UM & UMS have been throughout this process, to now put forth a policy that seeks to undo due process, the CBA, and legal protections shows the utter contempt and indifference of the UM & UMS administration. I repeat that the work is a contemptible piece of garbage. **It should be withdrawn, and those responsible for it and the process in which it was sent to the Senate should be held accountable.**

AFUM will take all actions available to protect members from this garbage policy and the garbage process UM has followed.

In total disgust,  
Jim  
Jim McClymer, PhD  
AFUM President

