

○ Regulations on Handling of Reports, etc. Concerning Unauthorized Use of Research Funds at National University Corporation Kobe University

(Established on October 23, 2007)

Revised on: January 20, 2015 September 30, 2015

September 30, 2016 March 31, 2017

December 23, 2021

(Purpose)

Article 1 These Regulations provide for the necessary matters concerning the reporting, investigations, measures, etc. pertaining to unauthorized use of research funds at the National University Corporation Kobe University (hereinafter referred to as "University"), under the provisions of Article 18 of the Rules on Handling of Research Funds and Prevention of Unauthorized Use at National University Corporation Kobe University (established on September 28, 2007; hereinafter referred to as "Rules").

(Definitions)

Article 2 The terms used in these Regulations shall refer to the terms used in the Rules.

(Reporting Concerning Unauthorized Use)

Article 3 Any person may notify the reporting desk when he or she considers there to be unauthorized use at the University (including suspicions of unauthorized use; hereinafter the same applies for this Article through Article 8).

2 The informant shall submit to the report desk explicitly in writing his or her name, station or department, address, etc. and the following items:

- (1) Name of the person suspected of unauthorized use;
- (2) Manner of unauthorized use and details of the matter;
- (3) Rational reason and evidence that allow for the conclusion of unauthorized use.

3 Notwithstanding the provisions of the preceding paragraph, reporting may be done through post, email, facsimile, telephone or interview.

4 Anonymous reports shall be accepted after consultation with the supervisory custodian, limited to cases where there are considerable reasons and evidence, etc. to believe the said report.

5 Any staff member other than a staff member of the reporting desk must promptly contact the reporting desk when he or she received a report.

6 When a Constituent Member learns of unauthorized use through his or her duties, or when suspicions of unauthorized use are pointed out by the press or academic societies, etc., a report is deemed to be made. In this case, the informant shall not be notified or reported based on these Regulations.

(Reports and Preliminary Investigations)

Article 4 The reporting desk shall promptly report to the head custodian through the supervisory custodian when a report pursuant to the provisions of the preceding Article is received.

2 The Head Custodian shall ask the research funds compliance promoter responsible for the department pertaining to a case (hereinafter referred to as "Relevant Promoter Responsible") to conduct preliminary investigations when a preliminary investigation is deemed necessary for the said case pertaining to the report in the preceding paragraph.

- 3 The Relevant Promoter Responsible must conduct the preliminary investigation and report the result to the head custodian within 14 days of the date he or she received the instructions for preliminary investigation.
- 4 For the execution of the preliminary investigation prescribed in the preceding paragraph, Constituent Members subject to the investigations, persons relating to the informant, or interested persons (hereinafter these shall be referred to as "Interested Parties") may not be included in the investigation so as to ensure the fairness and transparency of the preliminary investigation.

(Investigation)

- Article 5 The head custodian shall assess whether an investigation is necessary within 30 days from the day the notification is received in accordance with the report in paragraph 3 of the preceding Article, as well as report to the organization which have been allocated the research funds pertaining to the said unauthorized use (hereinafter referred to as "Allocated Organizations") whether the said investigation is necessary.
- 2 The Head Custodian shall have the Kobe University investigation committee pertaining to unauthorized use of research funds (hereinafter referred to as "Investigation Committee") conduct an investigation of the case when he or she decides to conduct an investigation pursuant to the provisions of the preceding paragraph.
 - 3 The head custodian shall notify the informant of the start of the investigation when he or she decided that an investigation is to be conducted; when the head custodian has decided that an investigation will not be conducted, he or she shall notify the informant that there will be no investigations and the reason for not doing so.

(Investigation Committee)

- Article 6 The Investigation Committee shall be organized with the committee members listed in the following items:
- (1) Supervisory Custodian;
 - (2) Head of Internal Control Office;
 - (3) some lawyers or certified public accountants;
 - (4) other persons whom the Committee Chair finds necessary.
- 2 The committee members referred to in item (3) of the preceding paragraph must be a person who has no direct interest in the University or any Constituent Member to be investigated or the informant so as to secure the fairness and transparency of the investigation.
 - 3 Of the committee members listed in the items of paragraph 1, a person who has a direct interest in any Constituent Member to be investigated or the informant may not participate in the investigation.
 - 4 The University shall establish the Committee Chair at the Investigation Committee, to which the Supervisory Custodian shall be assigned.

(Conducting of Investigations)

- Article 7 When instructions are given by the Head Custodian pursuant to the provisions of Article 5, paragraph 2, the Investigation Committee shall investigate whether there was unauthorized use, the details, the persons involved in the unauthorized use and the extent of involvement, the amount of unauthorized use, etc., and report the progress of the investigations to the Head Custodian where necessary.
- 2 The head custodian must report the investigation guidelines, investigation subject, investigation methods, etc. to the Allocated Organizations, as well as consult with them regarding the countermeasures.
 - 3 The Investigation Committee may order the Constituent Members subject to the investigations (hereinafter referred to as "Investigation Subjects") to submit the required documents for proper certification of facts (referred to as "Required Documents" in the following paragraph).

- 4 When the acquisition of Required Documents is deemed to be difficult, or when there is a risk of Required Documents being destroyed, the Investigation Committee may order the measures listed in the following items:
- (1) To specify an investigation site and to forbid the constituent members subject to the investigation from entering the said site;
 - (2) To forbid the Investigation Subject from contacting persons specified by the Investigation Committee;
 - (3) To forbid the Investigation Subject and persons specified by the Investigation Committee from taking objects specified by the Investigation Committee out of the specified investigation site;
 - (4) To lock the investigation site for a set period.
- 5 Beyond what is set forth in the items of the preceding paragraph, the Investigation Committee may order a ban on the Investigation Subject from using the research funds subject to investigations where necessary during the investigation period.
- 6 The Investigation Committee does not need to conduct a hearing for the Investigation Subject upon issuing an order listed in paragraph 3 and items in paragraph 4, and the preceding paragraph. However, if an order provided in paragraph 4, item (4) or the preceding paragraph is issued, the Compliance Committee shall obtain the consent of the head of the department managing the investigation site, and the said head of department shall not be able to reject the consent, except for cases where the said investigation will cause significant disruptions.

(Hearing)

- Article 8 The Investigation Committee must conduct a hearing for the Investigation Subject during the investigation, and the hearing shall be conducted in writing or verbally depending on the request of the Investigation Subject.
- 2 The Investigation Subject, when claiming to the Investigation Committee in the hearing that his or her behavior does not correspond to unauthorized use, shall be responsible for explaining that reason.

(Cooperation with Investigations)

- Article 9 Constituent Members whose cooperation in submitting testimony or evidence is demanded by the Investigation Committee shall, as a result of the said cooperation, personally be held responsible civilly and criminally, and must cooperate with this, excluding cases where there is a risk of receiving disciplinary action, etc. under the provisions of National University Corporation Kobe University Work Regulations for Staff Members (established on April 1, 2004; hereinafter referred to as "Work Regulations"), Kobe University Academic Regulations (established on April 1, 2004; hereinafter referred to as "Academic Regulations"), etc.
- 2 When entering the specified investigation site and taking the necessary apparatus, equipment, etc. out of the investigation site for the certification of facts, or when requesting the cooperation of Constituent Members on submitting testimonies or evidence, excluding Investigation Subjects, the Investigation Committee must manage the investigation site or ensure the person specified by the head of department at which the Constituent Member whose cooperation is requested is stationed or to which he/she belongs is made to attend.

(Reporting to the Head Custodian)

- Article 10 The Investigation Committee shall decide whether the unauthorized use pertaining to the Investigation Subject has been committed, the details of the illegality, involved persons, the degree of the involvement, and finding of the amount equivalent to the unauthorized use, based on the results of the investigation, and shall report them in writing to the Head Custodian.

2 When the Investigation Committee considers there to be facts of unauthorized use pertaining to the Investigation Subject in the report provided in the preceding paragraph, the Investigation Committee must take the following measures:

- (1) To report the need to take disciplinary actions against an Investigation Subject due to unauthorized use under the Work Regulations or Academic Regulations; or the need to cancel the title of the member under the Kobe University Regulations on Awarding Professor Emeritus Titles (established on April 1, 2004); or the need to cancel the degree under the Kobe University Degree Regulations (established on April 1, 2004) to the head custodian;
- (2) To report the damage compensation liability of the head custodian, supervisory custodian or Relevant Promoter Responsible due to the lack of adequacy as a supervisor, the need for disciplinary action, etc. under the provisions of the Work Regulations to the head custodian;
- (3) To report to the head custodian whether an action needs to be filed under the Code of Criminal Procedure (Act No. 131 of 1948), Code of Civil Procedure (Act No. 109 of 1996) when the mode of action is pernicious, such as when research funds are used privately;
- (4) To submit opinions to the head custodian on taking remedial measures of the said unauthorized use and the necessary measures to prevent recurrence (hereinafter referred to as "Remedial Measures, etc.").

3 When the Investigation Committee considers there to be no facts of unauthorized use pertaining to the Investigation Subject in the report provided in paragraph 1, the Compliance Committee must take the following measures:

- (1) To report to the head custodian the necessary measures required to restart the academic research activities for the Investigation Subject smoothly and to restore the reputation of the Investigation Subject;
- (2) To report to the head custodian the need for consideration of disciplinary action, etc. against the said informant under the provisions of the Work Regulations, Academic Regulations, etc. when the informant is a constituent member and he or she is clearly deemed to have made the report under the provisions of Article 3 knowing that there are no facts of unauthorized use by the Investigation Subject or there are no rational evidence enough to consider there to be the said facts.

(Investigation Results and Notification)

Article 11 The Head Custodian who received the report in the preceding Article shall decide on the necessary treatment, as well as notify the informant, the Investigation Subject and the Relevant Promoter Responsible depending on the said decision.

(Filing of an Objection)

Article 12 An informant and Investigation Subject may file an objection in writing to the Head Custodian if he or she is dissatisfied with the measures taken in the preceding Article, within 14 days starting from the date he or she receives the notification. However, objection can only be filed once.

(Reinvestigation)

Article 13 When the Head Custodian receives a written objection, he or she shall determine whether to reinvestigate; when the Head Custodian decides to conduct a reinvestigation, he or she shall instruct the Investigation Committee to conduct a reinvestigation, provided that, if the filing of the objection relates to the fairness of the constitution, etc. of the Investigation Committee, the committee members of the Investigation Committee may be changed.

- 2 The head custodian shall inform the informant and the Investigation Subject when he or she decides on a reinvestigation.
- 3 The Investigation Committee shall promptly conduct a reinvestigation upon receiving the instructions for reinvestigation and report the results to the Head Custodian.
- 4 The head custodian shall decide the necessary measures for the objection based on the report in the preceding paragraph and notify that result to the informant and the Investigation Subject.
- 5 When the head custodian decided that an investigation will not be conducted, he or she shall notify the informant and the Investigation Subject, along with the reason for not doing so.

(Remedial Measures)

- Article 14 When the Head Custodian considers it necessary owing to opinions prescribed in Article 10, paragraph 2, item (4), he or she shall promptly take Remedial Measures, etc. or order the Relevant Promoter Responsible to take Remedial Measures, etc.
- 2 When the Relevant Promoter Responsible shall take the Remedial Measures, etc. pursuant to the provisions of the preceding paragraph, he or she shall report details of the said Remedial Measures, etc. and the results, etc. to the head custodian.

(Reporting to Allocated Organizations and Cooperation with Investigations, etc.)

- Article 15 The Head Custodian shall report the results of an investigation to the Allocated Organization within two hundred-ten days from the receipt day of a report. If the investigation has not been finished by that deadline, the Head Custodian shall submit an interim report on the investigation in writing to the Allocated Organization.
- 2 Notwithstanding the provisions of the preceding paragraph, if facts for unauthorized use have been confirmed in the investigation process, the Head Custodian must promptly report it in writing to the Allocated Organization.
 - 3 If facts of unauthorized use have been certified in the report provided in the preceding 2 paragraphs, the reasons for the occurrence of unauthorized use, the management and state of the supervisory system of the research funds pertaining to the persons involved in the unauthorized use and the plans to prevent recurrence shall also be reported.
 - 4 Except where there are reasonable grounds, such as an investigation being hindered, the Head Custodian shall submit a report on the progress of an investigation and an interim report on the investigation in writing or shall cooperate in the investigation of the case which is conducted by the Allocated Organization, at the Allocated Organization's request even before the investigation is completed.
 - 5 When there is an order for refund of research funds pertaining to the unauthorized use from the said Allocated Organization as a result of the report provided in paragraph 1, the head custodian shall make the Investigation Subject refund the said amount.
 - 6 When the Allocated Organization does not request for a report, notwithstanding the provisions from paragraph 1 to the preceding paragraph, the reports, etc. under these provisions may be omitted.

(Publication of Investigation Results)

- Article 16 The Head Custodian shall promptly publicize the investigation results when he or she certifies the facts of the unauthorized use.
- 2 Where the investigation case is divulged outside the University, or where the social impact is great, even if the said investigation is not completed, the head custodian may publish the investigation results as an interim report.
 - 3 The published contents shall include the following items:

- (1) Names and stations or departments of persons involved in the unauthorized use;
- (2) Details of the unauthorized use;
- (3) Details of measures taken by the University until the publication;
- (4) Names and stations or departments of investigation committee members;
- (5) Investigation methods and procedures.

4 Where there are rational reasons that are not covered by the provisions of the preceding paragraphs, such as cases where there is likely to be infringements of rights and interests of the privacy of interested persons, the head custodian may not publish the names and departments, etc. of the persons involved in the unauthorized use.

(Protection of Informant)

Article 17 The University must not dismiss (in the case of dispatched workers or persons engaging in duties at the University under contract agreements or other contracts, cancel the said contract) Constituent Members or treat them in a disadvantageous manner on the grounds that they made a report.

2 The University must take appropriate measures to ensure that there is no deterioration of the work or school environment of staff members, etc. who made a report.

(Confidentiality Obligation)

Article 18 The members of the Investigation Committee and persons related to the investigation of unauthorized use under these Regulations must not divulge to other parties the information obtained pertaining to the duties.

2 Persons who engage or are engaged in duties such as notification, investigation, taking measures, etc. as prescribed in these Regulations must not divulge personal information of the informant, the report contents and information acquired through the investigation to others.

(Application to Retirees or Persons who Retired, etc.)

Article 19 Persons who were Constituent Members of the University in the past shall be treated as Constituent Members if a report is made.

2 Regarding persons who were constituent members of the University in the past, where the Allocated Organization requested investigation of the existence of facts of unauthorized use while they were employed or attending the University, or where cooperation in investigations implemented by the said Allocated Organizations is requested, the head custodian shall investigate or cooperate with the investigations of the said Allocated Organization if deemed necessary.

(Miscellaneous Provisions)

Article 20 In addition to the provisions of these Regulations, necessary matters concerning the implementation of these Regulations shall be prescribed by the President.

Supplementary Provisions

These Regulations come into force on October 23, 2007.

Supplementary Provisions between the original and the latest are omitted.

Supplementary Provisions (December 23, 2021)

These Regulations come into force as of January 1, 2022.