

Policy: 7-001                      Rev:  
Date: December 14, 1994

Subject: INTERIM POLICY FOR RESEARCH MISCONDUCT<sup>1</sup>

## I. PURPOSE

Misconduct in research is a matter of concern to the University individual scientists, sponsors of research, and the general public. The policies and procedures in this section are established to respond to allegations or evidence of misconduct in sponsored research. It is the policy of the university to maintain high ethical standards in research and to investigate and resolve promptly and fairly all instances of alleged or apparent misconduct.

## II. GENERAL

The policies and procedures in this section apply to all instances of alleged or apparent misconduct involving sponsored research, research training, and applications for support of research conducted, funded or regulated by a sponsoring entity by any university employee, faculty, student, staff or other individual who participates in the sponsored research project. This policy is the exclusive procedure for handling allegations of research misconduct.

## III. REFERENCES

Policy and Procedures [6-316.4](#) and [6-316.5](#), The Code of Faculty Rights and Responsibilities

Policy and Procedure [6-400](#), The Student Code

Policy and Procedure [6-309](#), Faculty Regulations

Policy and Procedure [5-111](#), Termination of Nonacademic Staff Employees and Disciplinary Sanctions

42 Code of Federal Regulations 50.103

## IV. DEFINITIONS

- A. Funded by means the provision of monetary support for grants, cooperative agreements, fellowships, or contracts.
- B. Inquiry means information-gathering and initial fact- finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
- C. Investigation means a formal examination and evaluation of all relevant facts to determine if an instance of misconduct has taken place. The investigation may include a formal hearing if requested by the subject of the investigation or the vice president for research. If misconduct has already been confirmed, an investigation may, nevertheless, be conducted to determine the extent of any adverse effects resulting from the misconduct.
- D. Misconduct or Misconduct in Research means fabrication, falsification, plagiarism, or other

practices that seriously deviate from those practices that are commonly accepted within the research community for proposing, conducting, or reporting research. It does not include honest error or honest difference in interpretations or judgments of data.

## V. POLICY

### A. Inquiry Into Possible Research Misconduct

Any student, faculty, staff or other person may make a complaint of misconduct. These complaints should be communicated, in writing, to the cognizant academic chair of the department or the dean of the college within which the alleged misconduct occurred. Upon receipt of such a complaint, the chair or dean will determine whether there is any basis for believing that misconduct has occurred. If the department chair or dean determines that there is a basis for believing misconduct has occurred, he/she shall notify the vice president for research in writing of the nature of the alleged misconduct, the name(s) of the individual(s) alleged to have engaged in misconduct, and any evidence available to support the allegation.

Upon receipt of a written complaint of misconduct, the vice president for research shall immediately inquire into the alleged or apparent misconduct to determine whether the allegation warrants an investigation. The vice president for research will complete the inquiry within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. Upon completion of the inquiry, the vice president for research shall prepare a written report stating what evidence was reviewed, summarizing relevant interviews, and setting forth the initial findings of the inquiry. If the inquiry takes longer than 60 days, the report shall include documentation of the reasons for exceeding the 60-day period.

A copy of the written report shall be given to the individual(s) against whom the allegation was made and to the individual making the complaint. The individual(s) against whom the allegation was made shall be given the opportunity to submit written comments on the report. These written comments shall become part of the record.

### B. Documentation of Inquiry Not Resulting in Investigation

If the vice president for research determines that an investigation is not warranted, the inquiry record must contain sufficiently detailed documentation of the inquiry to permit a later assessment of the reasons for determining that an investigation was not warranted. Such records must be maintained in a secure manner for a period of at least three (3) years after the termination of the inquiry, and when appropriate shall, upon request, be provided to the sponsoring entity's authorized personnel.

### C. Investigation of Possible Research Misconduct

If the vice president for research determines, on the basis of the initial inquiry, that reasonable cause exists for believing that the alleged misconduct occurred and an investigation is warranted, the vice president will notify, in writing, the individual(s) against whom the allegation was made that an investigation will take place. The vice president for research will also notify the sponsoring entity if appropriate. If the vice president determines that an investigation of alleged misconduct involving research funded or regulated by Public Health

Service ( PHS ) is warranted, the vice president will notify the Director of the Office of Research Integrity ( ORI ) in writing on or before the date the investigation begins in accordance with Subsection H.

1. The investigation must be commenced by the Research Misconduct Investigation Committee ( the investigation committee ) within 30 days of the completion of the inquiry, if the initial findings of the inquiry provide a sufficient basis for conducting an investigation.
2. The methods and procedures for conducting an investigation will necessarily vary depending on a number of factors, including (a) the nature of the allegation; (b) the sources of information; (c) the extent to which a current award may be involved; and (d) the degree of publicity associated with the case.
3. The investigation will normally include examination of all documentation, including, but not necessarily limited to, relevant research data and proposals, publications, correspondence, and memoranda of telephone calls.
4. Whenever possible, interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations. Complete summaries of these interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.
5. At the conclusion of the investigation, the investigation committee shall prepare a summary of its initial findings of fact conclusions and recommendations. A copy of the summary shall be provided to the subject(s) of the investigation. The subject(s) of the investigation shall be allowed no more than 10 days after receipt of the summary to submit comments to the investigation committee. The investigation committee shall append the comments to the summary. The individual(s) who raised the allegations should be provided with those portions of the report that address his/her role and opinions in the investigation.
6. The subject(s) of the investigation or the vice president for research may request a formal hearing within 10 days of receipt of the investigation committee s summary of initial findings of fact, conclusions and recommendations. If the subject(s) of the investigation agrees with the investigation committee s summary and does not request a formal hearing, the initial findings of fact, conclusions and recommendations of the investigation committee shall become final.
7. When a timely request for a formal hearing is filed, the Research Misconduct Hearing Committee ( the hearing committee ) shall conduct a hearing according to the following guidelines:
  - a. Hearings will be closed.
  - b. The subject(s) of the investigation may be accompanied and counseled by an advisor of their choice who will be permitted to attend, but not participate in, the

proceedings.

- c. The hearing committee and the subject(s) of the investigation may request the appearance of witnesses and the production of documentary evidence.
  - d. The hearing committee shall not be bound by the strict rules of legal evidence, and may admit evidence which is of probative value in determining the issues involved.
  - e. The hearing committee deliberations and voting shall be closed sessions from which all other persons are excluded. A two-thirds majority of members present shall be required for a decision on findings and sanctions. If a two-thirds majority of the hearing committee members find, by clear and convincing evidence, that the subject(s) of the investigation engaged in research misconduct, the hearing committee may recommend imposition of any appropriate sanction. The hearing committee must notify the subject(s) of the investigation, in writing, of the hearing committee's findings. If the hearing committee finds that the individual(s) engaged in misconduct, the notice must also inform the individual(s) of the sanction recommended. The hearing committee may recommend imposition of any of the following sanctions that it deems appropriate under the entire circumstances of the case:
    - i. A written reprimand;
    - ii. Restrictions on the individual's participation in research projects;
    - iii. Imposition of a fine or restitution;
    - iv. Probation, not to exceed one year;
    - v. Suspension or barring the individual from the exercise of his/her duties, with or without partial pay, for a period of time not to exceed one year; or
    - vi. Dismissal from employment or attendance at the university.
8. The hearing committee shall submit its findings of fact and its recommendations for sanctions to the vice president for research within 10 working days after the conclusion of the hearing.
  9. Within 10 days after reviewing the determination and recommendation of the hearing committee, the vice president for research shall issue a decision, including his/her recommendation on the sanction(s), if any, to be imposed. The vice president shall also provide written justification for the decision if it is inconsistent with that of the hearing committee. A copy of the decision of the vice president shall be given to the subject(s) of the investigation and must include notification of his/her right to appeal the decision to the president.
  10. In addition to any sanctions imposed by the university for research misconduct involving PHS funds, ORI may also impose sanctions of its own upon the individual(s) engaged in

misconduct or the university if such action is appropriate.

#### D. Completion of Research Misconduct Investigation

An investigation shall ordinarily be completed within 120 days of its initiation. This time period includes conducting the investigation, preparing the summary of initial findings, making the report available for comment by the subject(s) of the investigation, holding the formal hearing, and preparing the final report.

1. If the investigation committee or hearing committee determines that it will not be able to complete the investigation in 120 days, it must notify the subject(s) of the investigation of the estimated date of completion and an explanation for the delay. For investigations involving PHS funds, the investigation committee must also submit to ORI a written request for an extension and an explanation for the delay that includes an interim report on the progress to date and an estimated date of completion of the investigation. If the request for an extension is granted, the committee must file periodic progress reports as requested by ORI.
2. For investigations involving PHS funds, the hearing committee shall submit a final report to ORI within 120 days of the initiation of the investigation describing the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings. The report must also include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions taken by the institution.
3. While the primary responsibility for inquiries and investigations of alleged misconduct involving PHS funds lies with the university, ORI has the right to perform its own investigation at any time prior to, during, or following an investigation. Upon receipt of the hearing committee's final report, ORI will review the information in order to determine whether the investigation has been performed in a timely manner and with sufficient objectivity, thoroughness and competence.
4. If either the investigation committee or the hearing committee decides to terminate an investigation for any reason without completing all relevant requirements of this policy, the planned termination must be approved by the vice president for research. For investigations of alleged misconduct involving PHS funds, the report of such planned termination, including a description of the reasons for the termination, must be submitted to ORI, which will then decide whether further investigations should be undertaken.

#### E. Appeal of Research Misconduct Committee Finding and Imposition of Sanctions

1. The decision of the vice president for research, including his/her recommendation regarding sanctions, shall be binding on the university and the individual(s) found to have engaged in research misconduct except that the individual(s) may appeal the decision to the president of the university.
2. An appeal may be taken to the president of the university within 30 days after the date of

notification of the vice president for research's decision by filing a written notice of appeal with the president. The decision of the president shall be final.

#### F. Selection and Duties of Research Misconduct Committees

It is the policy of the university that the investigation of an individual alleged to have engaged in misconduct be thorough and fair. To this end, the investigation will be conducted by the Research Misconduct Investigation Committee ( the investigation committee ) and the hearing, if requested by the subject(s) of the investigation or the vice president for research, will be conducted by the Research misconduct Hearing Committee ( the hearing committee ). Each committee shall be composed of five persons recommended by the vice president for research and appointed by the president. The committee members shall be faculty and staff members with extensive experience and expertise in research which will enable them to carry out a thorough and authoritative evaluation of the relevant evidence in any investigation.

In order to ensure an objective and fair investigation, each committee shall take precautions against real or apparent conflicts of interest on the part of committee members. Committee members shall decline to participate in the investigation of any case in which they have a personal bias or interest which would preclude their making a fair and objective decision. The vice president for research has the authority to disqualify a committee member if the vice president determines that the committee member has a conflict of interest. Further, the subject of the investigation may, without stating reasons, excuse one committee member from the investigation committee and one member from the hearing committee.

The committees are charged with the following duties:

1. The committees have the responsibility to pursue diligently all significant issues and sources of information.
2. The committees have the authority to order the production of relevant university records and documents and to interview any individuals who may have relevant information. Compliance with such a request or order is an obligation of employment of any university official or employee except that the privilege of self-incrimination and privileges of confidentiality of communications or records recognized either by law or published university regulations shall be honored by the committee.
3. The committee may take interim administrative actions to protect sponsored research funds and ensure that the purposes of the sponsored research are carried out.
4. For investigations of alleged misconduct involving PHS funds, the committees shall keep ORI apprised of any development during the course of an investigation which discloses facts that may affect current or potential PHS funding for the individual(s) under investigation or that PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

#### G. Protection of Affected Parties

The confidentiality and privacy of all parties involved in a research misconduct inquiry or

investigation shall be respected insofar as it does not interfere with the university's legal obligation to investigate allegations of misconduct and to take corrective action.

1. To the extent permitted by law and university policies, the university will protect the identity of subject(s) of the inquiry or investigation.
2. To the extent permitted by law and university policies, the university will protect the identify and privacy of those individuals who, in good faith, report apparent misconduct or furnish information regarding such alleged misconduct. Retaliation of any kind against an individual who, in good faith, alleges misconduct is prohibited and the retaliator may be subject to discipline under university policies.
3. To the extent permitted by law and university policies, the documents, records and other information gathered by the vice president for research or the committees for the inquiry and/or the investigation shall be kept confidential.
4. The university shall undertake diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct when such allegations are not confirmed, and to protect the positions and reputations of those persons who, in good faith, report apparent misconduct.

#### H. Reporting Possible Research Misconduct to ORI

As a general rule, the university will initiate its own inquiry into an instance of possible misconduct involving PHS funds and conduct the subsequent investigation if warranted. If the vice president for research determines, based on the initial inquiry, that an investigation is warranted, the vice president must notify the Director of ORI on or before the date the investigation begins. The notification must include: (1) the name(s) of the person(s) against whom the allegations have been made; (2) the general nature of the allegation; and (3) the PHS application or grant number involved.

Under certain circumstances, the university must notify the ORI prior to the decision to initiate an investigation of alleged or apparent misconduct involving PHS funds. The ORI must be notified immediately if the vice president for research, the investigation committee or the hearing committee ascertains at any stage of the inquiry or investigation that any of the following conditions exist:

1. There is an immediate health hazard involved;
2. There is an immediate need to protect federal funds or equipment;
3. There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
4. It is probable that the alleged incident is going to be reported publicly;
5. There is a reasonable indication that the alleged misconduct is a criminal violation. In the

event of a reasonable indication of a criminal violation, the ORI must be notified within 24 hours of obtaining that information. The ORI will then notify the Office of Inspector General.

#### I. Educating Staff, Faculty Members and Students Involved in Research

Efforts should be made by deans and department chairs on an ongoing basis to inform their research and administrative staff, faculty members and students of the university's policies and procedures for dealing with instances of alleged or apparent misconduct in research. This policy will be printed in the Principal Investigator's Handbook and any other appropriate publication. Upon request, the vice president for research will provide the Office of Research Integrity and other authorized officials of a sponsoring entity with copies of the university's policies and procedures.

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1. The University is currently developing a comprehensive research misconduct policy. The Interim Research Misconduct Policy will obtain until such time that a final policy has been developed and approved by University governance. This interim policy is required by federal agencies that sponsor research at the University of Utah, especially the National Institutes of Health and the National Science Foundation.

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OUTDATED