

## **Policy 7-001: Policy for Research Misconduct**

### **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 research, research training, and applications for support of research conducted, funded or regulated by a sponsoring entity. The Policy applies to any university employee, faculty, student, staff or other individual who participates in the research project. This Policy is the exclusive Procedure for handling allegations of research misconduct. All allegations of research misconduct must be referred to the Research Integrity Officer who will coordinate the inquiry, investigation and hearing phases as needed. No committee shall be composed of more than five members.

### **III. References**

[Policy 6-316](#), The Code of Faculty Rights and Responsibilities

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

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

[Policy 5-111](#), Termination of Nonacademic Staff Employees and Disciplinary Sanctions 42 Code of Federal Regulations 50.103

#### IV. Definitions

- A. Allegation means any written or oral statement or other indication of possible research misconduct made to the Research Integrity Officer.
- B. Conflict of Interest means the real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.
- C. Funded by means the provision of monetary support for grants, cooperative agreements, fellowships, or contracts.
- D. Good Faith Allegation means an allegation made with the honest belief that research misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.
- E. Hearing means a formal process for reviewing the finding of fact, conclusions and recommendations of the Investigation Committee.
- F. Inquiry means information-gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
- G. "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.
- H. "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.

1. Fabrication is making up results and recording or reporting the fabricated results.
  2. Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
  3. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit and without specific approval, including those obtained through confidential review of others' research proposals and manuscripts.
- I. Research Record means any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of misconduct. A research record includes, but is not limited to, grant or contract application, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer programs, files and printouts; manuscripts; and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.
- J. Respondent means the person against whom an allegation of misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.
- K. Retaliation means any action taken by the university or an individual, that adversely affects the employment or other institutional status of an individual because the individual has in good faith, made an allegation of misconduct or of

inadequate institutional response or has cooperated in good faith with an investigation of such allegations.

- L. Whistleblower means a person who makes an allegation of misconduct.

## **V. Policy**

### **A. Suspension**

The President of the University may impose an interim suspension with full pay on a faculty member if the President, in his or her discretion, reasonably believes that such action is necessary to prevent substantial harm to the university or to some member of the university community. The President of the University may impose an interim suspension without pay if the President determines that the faculty member intentionally and clearly refuses to perform the essential duties of a faculty member. The President shall immediately give the faculty member written notice of the interim suspension, specifying the rule or rules violated and setting forth briefly the relevant facts and supporting evidence. If the interim suspension is without pay the President shall provide the faculty member with an opportunity to meet with the President to present the faculty member's views and object to the suspension prior to its imposition. The member's insurance benefits shall continue during the interim suspension without pay. An interim suspension is not to be considered a sanction but rather a temporary device for protecting the university's interests. It should be used with utmost caution.

An interim suspension may last until the investigation or Hearing Committee, if one is called, has concluded its deliberations. The Consolidated Hearing Committee may revoke a suspension without pay and reinstate pay if it finds that the faculty member is not then refusing to perform the essential duties and allowing the faculty member to perform those duties is in the best interests of the university. An interim suspension with pay, in order to prevent substantial harm, shall not be altered by the committee, until it has concluded its deliberations. At that point, the interim suspension should cease, to be replaced with a sanction or

with no sanction, in accord with the committee's recommendation. If an interim suspension was imposed with pay, a faculty member shall be entitled to reimbursement of lost salary and retirement benefits unless the faculty member is terminated as a result of disciplinary proceedings by the Consolidated Hearing Committee.

#### B. 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 Research Integrity Officer. Upon receipt of such a complaint, the Research Integrity Officer will determine whether there is any basis for believing that misconduct has occurred. If the Research Integrity Officer determines that there is a basis for believing misconduct has occurred, he/she shall notify the Vice President for Research and the appropriate Dean, in writing of the nature of the alleged misconduct, the name(s) of the respondent(s) alleged to have engaged in misconduct, and any evidence available to support the allegation.

Upon receipt of a written complaint of misconduct, the Research Integrity Officer will establish an ad hoc Inquiry Committee and a committee chair, assuring no conflict of interest among participants and complete confidentiality. The Research Integrity Officer will notify the respondent of the allegation and of the committee composition. The respondent may submit a written objection to any member within ten days. The Research Integrity Officer will determine the necessity of replacing a committee member.

The Inquiry Committee shall within one week inquire into the alleged or apparent misconduct to determine whether the allegation warrants an investigation. The Research Integrity Officer will complete the inquiry within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. Upon completion of the inquiry, the Research Integrity Officer 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 respondent(s) against whom the allegation was made and to the individual making the complaint. The respondent(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. A copy shall be forwarded to the cognizant Senior Vice President and Dean.

C. Documentation of Inquiry Not Resulting in Investigation

If the Inquiry Committee 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.

D. Investigation of Possible Research Misconduct

If the Inquiry Committee determines, on the basis of the initial inquiry, that reasonable cause exists for believing that an investigation is warranted, the Research Integrity Officer will notify, in writing, the respondent(s) against whom the allegation was made that an investigation will take place and the appropriate Dean(s). The Research Integrity Officer will also notify the sponsoring entity if appropriate.

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. The Committee will be appointed by the Research Integrity Officer and approved by the Vice President for Research.

- No member appointed to the Inquiry Committee shall serve on the Investigation Committee.
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 investigation file.
  5. At the conclusion of the investigation, the Investigation Committee shall prepare a summary of its initial findings of fact, conclusions and recommendations including sanction. A copy of the summary shall be provided to the respondent(s) of the investigation. The respondent(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 Whistleblower should be provided with those portions of the report that address his/her role and opinions in the investigation.
  6. A finding of misconduct requires that:
    - a. There is a significant departure from accepted practices of the research community for maintaining the integrity of the research record.

- b. The misconduct be committed intentionally, or knowingly, or in reckless disregard of accepted practices and
  - c. The allegation is proven by a preponderance of evidence.
7. The respondent(s) of the investigation or the Research Integrity Officer may request a formal hearing within 10 days of receipt of the Investigation Committee's summary of initial findings of fact, conclusions and recommendations by filing a request for a hearing with the Consolidated Hearing Committee through the Office of the Academic Senate. If the respondent 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 once approved by the Vice President for Research.
8. When a timely request for a formal hearing is filed, the Consolidated Hearing Committee shall conduct a hearing according to its Procedures. See [Policy 6-002](#) Section 10.
9. The Consolidated Hearing Committee shall prepare a report stating its determinations and recommendations and is rationale to the parties, the President of the University and the cognizant academic administrator in accordance with [Policy 6-002](#). The President shall thereafter take appropriate action. See [Policy 6-002](#), Section 10.
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 respondent(s) engaged in misconduct or the university if such action is appropriate.

#### E. 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 respondent(s) of the investigation, and preparing the final report.

1. If the Investigation Committee or Consolidated Hearing Committee determines that it will not be able to complete the investigation in 120 days, it must notify the respondent(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 Consolidated 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 respondent(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 Consolidated 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 Consolidated 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.

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

It is the Policy of the university that the investigation of a respondent alleged to have engaged in misconduct is 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 respondent(s) of the investigation or the Vice President for Research, will be conducted by the Consolidated Hearing Committee

The committees are charged with the following duties: (See also [Policy 6-002](#), Section 10 for complete Policy regarding Consolidate Hearing Committee.)

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 respondent(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 respondent(s) of the inquiry or investigation.
2. To the extent permitted by law and university policies, the university will protect the identity 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 or cooperated with the investigation, 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 Research Integrity Officer, 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 respondent(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 respondent(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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[Note: Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.]

## VI. Contacts

The designated contact officials for this Policy are:

- A. Policy Owner (primary contact person for questions and advice):

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- B. Policy Officer: Vice President for Research.

These officials are designated by the University President or delegee, with assistance of the Institutional Policy Committee, to have the following roles and authority, as provided in University Rule 1-001:

"A 'Policy Officer' will be assigned by the President for each University Policy, and will typically be someone at the executive level of the University (i.e., the President and his/her Cabinet Officers). The assigned Policy Officer is authorized to allow exceptions to the Policy in appropriate cases.... "

"The Policy Officer will identify an 'Owner' for each Policy. The Policy Owner is an expert on the Policy topic who may respond to questions about, and provide interpretation of the Policy; and will typically be someone reporting to an

executive level position (as defined above), but may be any other person to whom the President or a Vice President has delegated such authority for a specified area of University operations. The Owner has primary responsibility for maintaining the relevant portions of the Regulations Library... [and] bears the responsibility for determining -requirements of particular Policies... ." University Rule 1-001-III-B & E

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Approved: Academic Senate 1/10/05

Approved: Board of Trustees 2/14/05

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