

MISCONDUCT IN SCIENTIFIC RESEARCH

General Discussion

The University community has the obligation to conduct research and communicate results using the highest standards and ethical practices. The University is responsible for promoting academic practices that prevent misconduct and for developing policies and procedures for dealing with allegations of misconduct. Students, staff, faculty and administrators share responsibility for developing and maintaining standards to ensure ethical conduct of research and detection and appropriate handling of abuse of these standards.

Federal agencies require that institutions receiving federal funds for the conduct of biomedical and behavioral research submit an “assurance of compliance” with federal guidelines of misconduct of science and engineering research, and an “Annual Report on Possible Misconduct in Science”.

Definitions

Investigator – All individuals engaged in research that is supported, by or for which support is requested from federal agencies. This includes scientists, trainees, technicians, students, fellows, guest researchers and collaborators.

Complainant(s) – individual(s) bringing charges of misconduct. The role of the complainant is only to raise the question of possible misconduct. It is the institution’s responsibility to determine if it is an easily resolvable misunderstanding or whether it should be investigated further. Once an allegation is made, the complainant should cooperate with the inquiry or investigation; he or she does not need to prove the case or provide the only source of expertise to counter the respondent’s claims.

Respondent(s) – investigator(s) against whom charges have been filed.

Misconduct – means 1) fabrication, falsification, plagiarism, or other serious deviation from accepted practices in proposing, carrying out, or reporting results from research; 2) material failure to comply with Federal requirement for protection of researchers, human subjects, or the public or for ensuring the welfare of laboratory animals; or 3) failure to meet other material legal requirements governing research. It does not include honest error or honest differences in interpretations or judgment of data.

An **Inquiry** consists of information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

An **Investigation** is a formal examination and evaluation of relevant facts to determine whether misconduct has taken place or, if misconduct has already been confirmed, to assess its extent and consequences or determine appropriate action.

Initiation of Charges of Misconduct and the Inquiry Process

In order to initiate charges, written allegations of misconduct with supporting documentation shall be forwarded to the Dean of the investigator charged with alleged misconduct. The Dean shall initiate an **Inquiry** to be completed within sixty (60) calendar days (including preparation of a written report) of the allegation. If circumstances clearly warrant a longer period, these circumstances must be included in the final report. During the Inquiry process, the Dean shall maintain confidentiality with respect to all involved to the maximum extent possible that is compatible with accomplishing the fact-finding purpose of the Inquiry. Such confidentiality cannot, however, be assured. The person(s) accused of misconduct shall be notified that an Inquiry is being conducted and shall have an opportunity to respond in person and/or in writing to any allegations.

The Dean shall be directly responsible for the Inquiry. A written report shall be prepared that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusion of the Inquiry. The individual(s) against whom the allegation was made shall be given a copy of the report. The individual(s) may comment on the report, and their written comments shall be affixed to the report. If warranted, the Dean shall recommend an Investigation.

If an Investigation is not recommended, the report and supporting documentation shall be forwarded to the Director of Sponsored Programs and shall be kept in a secure location for three years following the conclusion of the Inquiry. The Dean and Director of Sponsored Programs will undertake diligent efforts to restore the respondent's reputation with regard to the unsupported allegations. All individuals related to the review process, the Provost, the President of the University and Chairperson of the researcher's department will be notified that the charge of misconduct in research was unfounded. The positions and reputations of persons who make allegations in good faith shall also be protected.

The Investigation

1. The Inquiry report, recommendations and supporting evidence shall be forwarded to the Director of Sponsored Programs.
2. **Notification of federal agencies.** The Director of Sponsored Programs shall then notify the appropriate federal funding agency, as required by law, that an investigation has been initiated. The federal funding agency shall also be notified immediately upon determination that there is reasonable indication of a) an immediate health hazard, b) an immediate need to protect federal funds or equipment, c) an immediate need to protect the complainant or the respondent, d) a probability that the alleged incident will be reported publicly, or e) criminal violations. The Director of Sponsored Programs will also promptly advise the federal funding agency of any developments during the course of the investigation which disclose facts that may affect current or potential funding for the individual(s) under investigation or that the funding agency needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

3. **Appointment of Review Committee.** A committee of the faculty shall be appointed by the Provost in consultation with the Department Chair and Dean of the Respondent (unless a conflict of interest exists with these individuals) and shall begin its investigation within thirty (30) calendar days of the end of the Inquiry. The committee shall be composed of five faculty members. Three members shall be from the division of the investigator charged with misconduct and one member shall be from a different division. The fifth member of the committee will be an individual outside of the University, who possesses an expertise that qualifies her/him to judge the relevant scientific data. The committee should be constituted in such a way that it has the necessary and appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence. No member of the committee should be able to render a fair, impartial, and objective assessment of the evidence in the case.
4. **The Investigation.** All discussions by the committee shall be confidential. The committee will examine all pertinent evidence (e.g. including but not limited to relevant research data and proposals, publications, correspondence, and phone call memoranda), interview all individuals involved in making the allegation, and hear any expert testimony. The committee shall be empowered by the Provost to seek and obtain any relevant information that is pertinent to the Investigation, the respondent shall be notified by certified letter of the time and date of a hearing to be held by the committee. At this time, the respondent may present evidence and expert testimony on her/his behalf. The respondent also may have legal counsel at this meeting. Legal counsel may only advise and shall not speak on behalf of the respondent. The entire proceedings of the committee meeting will be electronically recorded on tape with the full knowledge of those present.
5. **Timeline and Final Report.** The investigation should be completed within 120 calendar days of its initiation. If the investigation will take longer than 120 days, permission should be requested from the appropriate federal agency. After reviewing all data, the committee will decide if the charge of misconduct is or is not substantiated. At least three of the five members must agree that the investigator is guilty of misconduct before such a decision can be rendered. At the end of the Investigation, the committee shall submit a written report of its findings and recommendation within 10 working days to the Director of Sponsored Programs. If a decision is not unanimous, a minority report will be attached to the majority report outlining the reasons for dissent.

The report should include:

- Names and qualifications of individuals comprising the Review Committee.
- Summary of findings.
- Summary of testimony given by witnesses and respondent (a verbatim transcript of the proceedings may be submitted if the committee finds it appropriate).
- All witnesses and respondent should be given the opportunity to review their testimony and allowed to comment upon and revise the summary of their interview. These comments and revisions should be attached to the report.

- Conclusions – minority report attached if necessary.
- Recommendations including potential sanctions if guilt has been determined.

Sanctions may include but are not limited to:

- Removal from particular project.
 - Special monitoring of future work.
 - Letter of reprimand.
 - Probation for a specified period with conditions specified.
 - Suspension of rights and responsibilities for specified period, with or without salary.
 - Termination of employment
6. **Reporting the Decisions and Recommendations.** The Director of Sponsored Programs will notify the Provost who will, in turn notify the President of the University, the respondent, the Dean and the Chairperson of the respondent's department. If the committee and Director of Sponsored Programs deem it appropriate, interim administrative actions will be taken to protect federal funds (e.g. freeze the researcher's funds) and to ensure that the purposes of the federal financial assistance are being carried out. The Director of Sponsored Programs also will forward a copy of the final report to the appropriate federal agencies.
 7. **Enforcement of Decision and Recommendations.** If charges of misconduct are substantiated, the investigating committee shall comment in their report on the degree of the offense and recommend appropriate sanctions. The Director of Sponsored Programs shall forward the report of the committee to the Provost who shall forward it with recommendations to the President of the University. The President shall determine and enforce appropriate sanctions and will be responsible for notifying the person(s) charged. The degree of sanction shall be in relation to the degree of the offense. Upon review of the final report, the federal agency may also impose sanctions. Sanctions imposed by federal agencies include: 1) debarment from applying for or receiving Federal funds, 2) prohibition from serving on advisory committees, boards, and peer review groups, and 3) submission of various certifications.
 8. **Restoration of Reputation.** If the committee finds the charge of misconduct to be unfounded, the report and supporting evidence shall be forwarded to the Director of Sponsored Programs and shall be kept in a secure location for three years following the conclusion of the Investigation. Both the Dean and Director of Sponsored Programs will undertake diligent efforts to restore the respondent's reputation with regard to the unsupported allegations. All individuals related to the review process, the Provost, the President of the University and Chairperson of the investigator's department will be notified that the charge of misconduct in research was unfounded. The positions and reputations of persons who make allegations in good faith shall also be protected.
 9. **Right to Appeal.** Individuals may appeal the judgment of the investigating committee and/or the sanction. A written statement of the grounds for appeal must be submitted to the Provost within 30 days of written notification of the results of the investigation. Grounds for appeal include, but are not limited to, new previously unconsidered evidence, sanctions not in keeping with the findings,

conflict of interest not previously known among those involved in the investigation and other lapses in due process. Upon receipt of a written appeal, the Provost will evaluate the evidence and make a determination. The Provost will forward his conclusions and recommendations to the President. The President, may, at this discretion, reopen the investigation. The President's decision will be binding on all parties and will be conveyed to all involved in a timely fashion.