

3364-70-21 Policy on integrity in research and procedures for investigating allegations of research misconduct.

(A) Policy statement

It is a fundamental responsibility of the university to maintain the public trust in research and scholarly activity. We hold our researchers to high standards of research integrity.

(B) Purpose of policy

The purpose of this document is to (1) provide a statement on integrity in research and scholarship; (2) describe the responsibilities of research personnel, administrators, and others in the academic community; and (3) set forth both swift and fair procedures for handling instances of alleged misconduct in research.

(C) Scope

This policy applies regardless of the source of funding (if any) for all research and scholarship conducted within the university community. This policy applies to all members of the university community involved in research and scholarship, including faculty or staff on leave without pay. These procedures apply to students only when acting in their employment or research service capacity or if they are involved in federally supported research or scholarship. If the respondent is no longer employed by the university, these procedures may nonetheless be used as a means of ascertaining the culpability of the respondent and maintaining the integrity of university research and scholarship. The research integrity officer ("RIO") and leadership must follow the requirements of any applicable funding agency or agreement when making this decision.

This statement of policy and procedures does not apply to authorship or collaboration disputes (unless as defined in (D) (2) of this rule) nor to offenses relating to instruction or course materials that are limited to dissemination to university of Toledo students. Authorship guidelines are addressed in rule 3364-70-02 of the Administrative Code (responsible conduct of scholarship and research).

(D) Definitions

- (1) Research: As defined in 45 C.F.R. 46.102, research means "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable

knowledge." Scholarship is defined as the practice of advancing, preserving and disseminating knowledge and thought through study, reflection, and engagement that extends beyond traditional instructional activities. Research and scholarship are used interchangeably in this document.

(2) Research misconduct:

(a) Research misconduct is fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or scholarship, or in reporting research or scholarship results.

(i) Fabrication is making up data or results and recording or reporting them.

(ii) 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.

(iii) Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

(iv) Deliberate violation of regulations is research misconduct and includes flagrant failure to adhere to or receive the required approvals for work under regulations of federal, state or local agencies, or university policies. Examples include, but are not limited to, guidelines for: protection of human and animal subjects, use of hazardous chemicals, biologicals, radioactive materials, and export controlled research.

(b) Research misconduct does not include honest error or differences of opinion.

(c) A finding of misconduct requires that there be a significant departure from accepted practices of the relevant research

community. The misconduct must be committed intentionally, knowingly, or recklessly; and the allegation be proven by a preponderance of the evidence.

- (3) Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not (from 42 CFR 93.219).
- (4) Complainant: the individual(s) bringing forward an allegation of research misconduct.
- (5) Respondent: the person against whom an allegation of research misconduct is directed or is the subject of a research misconduct proceeding.
- (6) Allegation: the initial claim or assertion that individual(s) may have participated in research misconduct.
- (7) Allegation assessment: Preliminary determination of whether an allegation is within the scope of this policy and is sufficiently credible and specific so that potential evidence of research misconduct may be identified.
- (8) Inquiry: the process that makes a preliminary evaluation (not concluding whether research misconduct has occurred) of the available evidence and information from the respondent, the complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation.
- (9) Investigation: the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, by whom and to what extent.
- (10) Research integrity officer (“RIO”): The RIO is the institutional officer who will have primary responsibility for implementation of the institution’s policies and procedures on research misconduct. The president or his/her designee is responsible for appointing the RIO.

- (11) Deciding official (“DO”): the institutional official who makes final determinations on allegations of research misconduct and any institutional administrative actions and is the provost. When the provost cannot serve as DO, for example due to a conflict of interest, the president shall appoint a DO. The DO and RIO will be separate individuals.
- (12) Senior faculty: is a faculty member who has either (i) achieved tenure in a tenure track position or (ii) has achieved the rank of associate or full professor in a tenure track eligible position or (iii) has a minimum of five years’ of professional experience in a clinical position with a demonstrated record of research/scholarly activities.

(E) Responsibility

- (1) All institutional members who have good faith knowledge of an offense or a breach of research ethics are obligated to report it along with the basis for the allegation to the research integrity officer or other officials at the university of Toledo (who will then report this to the research integrity officer).
- (2) The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation.
- (3) The respondent and any collective bargaining representatives or advisors are responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation.

(F) Procedures for reporting and investigating allegations of research misconduct

- (1) Reporting allegation, inquiry, and investigation.
- (a) General comments
- (i) All inquiries and investigations will be reviewed and generally will be carried through to completion and all significant issues will be pursued diligently.

- (ii) An allegation may be closed at the inquiry or investigation stage on the basis that respondent has admitted responsibility and a resolution with the respondent has been satisfactorily reached, provided that applicable federal agency requirements regarding early termination of the process are met.
- (iii) Appropriate university official(s) may impose a temporary suspension of duties, pending conclusion of the inquiry and/or investigation or take other appropriate action as necessary, including but not limited to actions intended to protect federal funds.
- (iv) Participants and their advisors should treat the matter with discretion and respect for the reputation of the parties involved. Both the inquiry and the investigation will be handled in such a way to promote confidentiality, providing information only to those who need to know. Reasonable efforts will be made to protect the identity of the respondent and the complainant(s) from all except those who have a need to know. The university, however, cannot guarantee anonymity or complete confidentiality due to public records law and the need to complete an appropriate investigation. The identity of individuals who report or provide evidence regarding allegations of misconduct in research or scholarship may be disclosed to the respondent or others. The reporting of potential academic misconduct or illegal activity to the sponsor, journal, governmental agency, or other entity having apparent authority to investigate or address the alleged misconduct is not an abuse of confidentiality.
- (v) The university strives for an expeditious and thorough investigation and provides the respondent an opportunity to comment on all allegations during the inquiry stage and, if initiated, during the investigation.

- (vi) The integrity of the process will be maintained by disclosure and evaluation of any prejudicial conflict(s) of interest. Individuals judged by the RIO or the DO to have a conflict of interest that would jeopardize the credibility of the inquiry or investigation will not be assigned to inquiry or investigation panels nor to decision-making roles in the process.
- (vii) It is a violation of university policy to retaliate against an individual for reporting in good faith an allegation of research misconduct.
- (viii) The university will make a good faith effort to notify the respondent of the steps taken in the process. If the respondent has not provided current contact information to the university or does not respond to notices, these proceedings will continue and if applicable, the committee will document how the respondent's absences impeded the process.

(b) Federal requirements

- (i) The national science foundation, the public health service and other federal agencies have published formal regulations regarding the investigation of allegations of research misconduct involving activities supported by those agencies (See appendix a). Each of these regulations contains a definition of research misconduct, prescribes certain time limits for inquiries and investigations, and requires reporting to the agencies under certain conditions and at specified stages in the process.
- (ii) The RIO will determine the applicability of external regulations in each particular case. The university will comply with the requirements of the federal regulations.

(c) Allegations

(i) Allegations of possible research misconduct may be through any means of communication, as prescribed by federal guidelines (e.g. NSF and PHS).¹ The disclosure may be by written or oral statement or other communication to an institutional official. If an allegation is received orally, the university official receiving the allegation is to document, in as much detail as possible prior to the assessment stage, the information provided, the name of the person providing the information (if known), and that record will be used as the allegation for purposes of this policy.

(d) Allegation assessment

(i) The purpose of the assessment is to determine if an inquiry is warranted. An inquiry is warranted if the allegation falls within the definition of research misconduct under this policy and is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

(ii) The RIO will assess the allegation in consultation with at least three impartial senior faculty members (with a faculty appointment below the dean level) identified by the RIO. The RIO will provide a description of allegations to the faculty members participating in assessment via electronic mail. Assessment will be initiated within five business days of receipt of the allegation.

(iii) The RIO will forward potential misconduct that does not fall within the definition of research misconduct under this

¹ “Promptly after receiving an allegation of research misconduct, defined as a disclosure of possible research misconduct through any means of communication...” (requirements for institutional policies and procedures on research misconduct under the new PHS policies on research misconduct - 42 CFR Part 93).

policy through other administrative channels as appropriate.

(iv) After assessment, the allegation will either be dismissed or move to the inquiry stage. If the allegation moves forward, the RIO will prepare a written charge for the inquiry committee that: describes the allegations and any related issues identified during the allegation assessment; and states that an investigation is warranted if the committee determines that: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and, (2) the allegation may have substance, based on the committee's review during the inquiry.

(e) Inquiry

- (i) The inquiry is an extension of the allegation assessment process where the university conducts an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation nor involve a formal hearing. The purpose of an inquiry is not to reach a final conclusion as to whether research misconduct occurred or who was responsible. Rather, the purpose is to determine whether there is sufficient substance to an allegation to warrant a formal investigation.
- (ii) The RIO will oversee the inquiry process and inform the DO, and respective dean that an inquiry has been initiated.
- (iii) The RIO will make a good faith effort to notify the respondent that an inquiry has begun and provide the respondent with the written charge. If the inquiry subsequently identifies additional respondents, they must be notified in writing of the applicable charges. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all

- reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.
- (iv) Within three business days, the respondent may submit a written response to the allegations. This response will be provided to the inquiry panel for review. The respondent is not required to submit this response, but it is provided as an initial opportunity to inform the committee about information the respondent believes they should know as they proceed with the inquiry.
- (v) The RIO will form a committee to secure the necessary and appropriate assistance to ensure a thorough and authoritative evaluation of the allegation(s). The RIO will seek guidance from members of the university research council in the selection of the inquiry committee, which will consist of three senior faculty members, including at least one member of the university research council or a research council designee, with the additional assistance, if needed, of an expert in the academic discipline involved, either from within the university or elsewhere. Individuals who have served in the allegation assessment will be excluded from the inquiry committee.
- (vi) The RIO will inform the respondent of the names of the inquiry committee members. The respondent has one week to object in writing to the RIO to a committee member on the basis of conflict of interest; the conflict must be explained in sufficient detail so as to allow the RIO to make a determination about the committee member.

- (vii) The respondent may have an advisor and/or collective bargaining representative present during respondent's meetings with the inquiry panel.
- (a) The RIO must be notified at least twenty-four hours prior to the meeting or hearing that an advisor and/or collective bargaining representative will attend, and whether the advisor and/or collective bargaining representative is an attorney.
- (b) A collective bargaining representative and/or other advisor may be present during meetings and hearings in which the respondent is present. Respondents must cooperate by providing the respondent's own account of the matter under review during interviews. An advisor and/or collective bargaining representative of a respondent may not interfere with the objectives of the committee or the committee's interview of respondent, or disrupt the process in a manner that prevents an effective interview.
- (c) An advisor or collective bargaining representatives are expected to make themselves available on the dates and times that meetings and hearings are scheduled; meetings and hearings will not be rescheduled more than once due to unavailability of any party's advisor and/or collective bargaining representative.
- (d) The respondent and their advisor and/or collective bargaining representative are not permitted to record, photograph, or audio record meetings or proceedings.
- (viii) The inquiry committee will request written statements from individuals and conduct separate meetings with any persons involved for the purpose of clarification and fact-finding.

Detailed documentation shall be kept in the research and sponsored programs office to permit later assessment of the adequacy of the inquiry.

(ix) The inquiry should be completed within sixty days. If the inquiry exceeds that timeframe, the record of the inquiry will document the reason for the delay.

(x) If the respondent refuses to participate in the process, the inquiry committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

(f) Reporting on the inquiry

(i) The inquiry committee will prepare a written report that includes the name and position of the respondent, the names and titles of the inquiry panel members, a statement of the allegation(s), a description of the evidence reviewed, summaries of the relevant interviews, and the conclusions of the inquiry that includes the basis for recommending or not recommending that the allegations warrant an investigation.

(ii) If the inquiry concludes that an investigation is warranted, the respondent will be provided the opportunity to comment on the report within fourteen days, and any such comment will become part of the record. The individual who made the allegation also may review and comment on that portion of the report directly related to the testimony or other evidence brought forth by that individual. Any comments that are submitted by the complainant will be attached to the final inquiry report.

(a) If the inquiry produces sufficient evidence to warrant a formal investigation, the RIO will initiate a formal investigation. The determination to

proceed with an investigation will be based on the recommendation of the inquiry committee in consultation with the RIO and members of the research council.

- (b) The RIO shall decide if and when external funding agencies, if any, are to be notified, what any such notification shall include, and to whom it should be directed. Any such notice shall be submitted by the RIO, or his or her designee.
- (c) The RIO and DO will determine what additional notification(s) may be necessary. Reasonable efforts will continue to be made to protect the identity of the respondent and the complaint(s).
- (iii) If the inquiry concludes that an investigation is not warranted, the RIO shall so inform any persons involved in the inquiry to whom the identity of the respondent was disclosed.
- (iv) The report of the inquiry, along with any formal comments on the report, will be forwarded to the RIO, who will notify the appropriate director(s), the DO, and any other appropriate university official.
- (v) Records and documentation of all inquiry proceedings and findings will be kept in the research and sponsored programs office for at least seven years after the termination of the inquiry.
- (vi) The RIO will forward potential misconduct that does not fall within the definition of research misconduct under this policy through other administrative channels as appropriate.

(vii) Unsupported allegations of research misconduct not brought in good faith may lead to disciplinary action against the complainant(s).

(g) Investigation

- (i) The purpose of the investigation is to determine whether research misconduct has been committed, by whom, and to what extent, and to make recommendations with respect to disciplinary actions. In the course of the process, the investigation may also determine that there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. The investigation must begin within thirty calendar days after the determination by the RIO that an investigation is warranted.
- (ii) The RIO will oversee the investigation process and inform the DO and appropriate dean that an investigation has been initiated.
- (iii) The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the institution's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured.
- (iv) Upon determining that an investigation is warranted, the RIO will appoint an investigating committee of up to five senior faculty members.

- (a) The committee will include at least one member of the university research council or their designee, and may include one or more experts from outside the university when necessary. One of the committee members will be appointed by the RIO to serve as the committee chair. Individuals who have served on the inquiry panel or been involved in the preliminary assessment of the allegation will be excluded from the investigation committee. One exception to this exclusion, for one member of the investigation committee, is permitted only when approved by the research council.
- (b) The RIO will seek guidance from members of the research council in the selection of the investigation committee.
- (c) The RIO will inform the respondent of the names of the appointed committee members. The respondent has one week to object in writing to the RIO to a committee member on the basis of conflict of interest; the conflict must be explained in sufficient detail so as to allow the RIO to make a determination about the committee member.
- (v) The RIO will inform the respondent in writing of the initiation of the investigation, the composition of the investigating committee, the charge to that committee, and his/her obligation to cooperate in the investigation.
- (vi) The investigating committee will gather and evaluate evidence and reach a determination within one hundred twenty days of appointment of whether research misconduct has indeed occurred, and if so to what extent and by whom. If the investigation exceeds that time-frame, the record of the investigation will document the reason for the delay. A committee determination that misconduct has occurred should also include recommended sanctions (e.g.,

reprimand, demotion, or discharge) or other actions appropriate for resolution of the matter such as correction of the research reporting.

- (vii) During that investigation, the respondent will be informed of the identity of all witnesses called before the committee.
- (viii) The investigating committee will pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.
- (ix) The investigation committee may review and inspect laboratory notes, grant and contract files, reports, scholarly publications, manuscripts and other pertinent documents and electronic materials or communications and to laboratory or clinical facilities and materials.
- (x) The investigative committee must seek to collect information from and, if possible, interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation.
- (xi) The respondent may have an advisor and/or collective bargaining representative present during meetings with the investigation panel.

 - (a) The RIO must be notified at least twenty-four hours prior to the meeting or hearing that a collective bargaining representative and/or other advisor will attend, and whether the collective bargaining representative and/or other advisor is an attorney.

- (b) An advisor and/or collective bargaining representative may be present during meetings and hearings in which the respondent is present. Respondents must cooperate by providing the respondent's own account of the matter under review during interviews. An advisor and/or collective bargaining representative of a respondent may not interfere with the objectives of the committee or the committee's interview of respondent, or disrupt the process in a manner that prevents an effective interview.
- (c) An advisor and/or collective bargaining representatives are expected to make themselves available on the dates and times that meetings and hearings are scheduled; meetings and hearings will not be rescheduled more than once due to unavailability of any party's advisor.
- (d) The respondent and advisor and/or collective bargaining representatives are not permitted to record, photograph, or audio record meetings or proceedings.
- (xii) The investigating committee will keep the respondent, provost, and the appropriate dean apprised of any additional allegations or other developments during the investigation.
- (h) Formal findings of the investigation committee, resolution and outcome

 - (i) A finding of misconduct requires that a preponderance of the evidence establishes that:

 - (a) Research misconduct, as defined in this policy, occurred; and

- (e) Identification and summary of the research records and evidence reviewed, as well as any evidence taken into custody but not reviewed;
- (f) A summary of the facts and analysis supporting the report's conclusions;
- (g) If applicable, identification of any funding agency support, the name of the agency, and documentation sufficient to document the support for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing the agency providing support;
- (h) A copy of the institutional policy under which the investigation was conducted;
- (i) Identification of publications that need correction or retraction, and
- (j) A list any current external support or applications for funding that the respondent has pending.
- (iv) The respondent and complainant have thirty days to comment on the report, and such comments will become part of the record.
- (v) The committee will submit its report and respondent's comments, to the RIO, and the DO. The DO, after consultation with the RIO and investigation committee, will decide whether to concur or reject the finding of misconduct and decide what action should be taken. He or she will notify the respondent, the RIO, the appropriate dean, department or program chair, and any other appropriate university official of the decision. In consultation with the appropriate university official(s), the RIO will then decide if, and when, external funding agencies, publishers, and/or co-authors, if any, are to be

notified, what any such notification shall include, and to whom it should be directed. Any such notice will be submitted by the RIO.

- (vi) If the DO rejects the findings of the investigation committee or the recommended outcomes, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings or recommended outcomes of the investigation committee.
- (vii) Investigation files will be maintained in a secure manner in the research and sponsored programs office or in a secured location under the direction of research and sponsored programs for seven years after completion of proceedings.
- (viii) The university will undertake efforts, as appropriate and feasible, to restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed, and also undertake efforts to protect the positions and reputations of those persons who, in good faith, made allegations.
- (ix) An individual who has been found by the DO to have committed misconduct, may appeal the imposed disciplinary actions by following the applicable grievance policy.

Appendix A: Federal Research Misconduct Policies

US Department of Health & Human Services, 42 CFR parts 53 and 90, May 17, 2005

https://ori.hhs.gov/front_misconduct

The National Science Foundation (NSF) Regulations, 45 CFR Part 689, March 18, 2002

<https://www.nsf.gov/oig/regulations/>

National Endowment for the Humanities

<https://www.neh.gov/grants/manage/research-misconduct-policy>

National Aeronautics & Space Administration, 14 CFR Part 1275, July 14, 2004

<http://edocket.access.gpo.gov/2004/04-15432.htm>

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