

POLICY ON ALLEGED MISCONDUCT IN RESEARCH

All members of the research community at the University of Connecticut, including all faculty members, research assistants and associates, graduate students, postdoctoral fellows, technicians, and administrative staff involved in the University's research program, are bound by this policy on research misconduct (defined below). It is the clear obligation of all members of the research community to report incidents of suspected research misconduct. In order to provide an orderly disposition of allegations of misconduct that is thorough, rapid, and fair to all parties, the following process, consisting of four stages, has been developed. The four stages are described in the body of this policy.

Section 1. - DEFINITIONS

Allegation – An allegation is a disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement, or other communication to an institutional official.

Complainant – The complainant is a person who in good faith makes an allegation of research misconduct, or may be a whistleblower.

Evidence – Evidence is a document, tangible item, or testimony offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

Good Faith – Good faith, as applied to a complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping an institution meet its responsibilities under this section. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.

Inquiry – An inquiry is a preliminary information gathering action and preliminary fact finding effort conducted by the Committee (Section 2) on Alleged Misconduct in Research.

Investigation – An investigation is the formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct which may include a recommendation for other appropriate actions, including administrative actions.

Person – A person means any individual, corporation, partnership, institution, association, unit of government or legal entity, however organized.

Preponderance of Evidence – Preponderance of 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.

Research – Research means systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research).

Research Misconduct – Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, as follows:

- Fabrication is making up data or results and recording or reporting them.
- 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.
- Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- Research misconduct does not include honest error or differences of opinion.

Research Misconduct Proceeding – Research misconduct proceeding means any actions related to alleged research misconduct taken under this part, including but not limited to, allegation assessments, inquiries, investigations, oversight reviews, hearings and administrative appeals.

Research Record – Research record means the record of data or results that embody the facts resulting from scientific inquiry, including, but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to an institutional official by a respondent in the course of the research misconduct proceeding. The research record could include instrumentation which store research records.

Respondent – Respondent means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

Retaliation – Retaliation for the purposes of this section means an adverse action taken against a complainant, witness, or committee member by the University or anyone associated with it, in response to:

- A good faith allegation of research misconduct; or
- Good faith cooperation with a research misconduct proceeding.

Time Limitations -

- A. Six-year limitation. This Policy applies only to research misconduct occurring within six years of the date the University receives an allegation of research misconduct.
- B. Exceptions to the six-year limitation. Paragraph A of this section does not apply in the following instances:
- Subsequent use exception. The Respondent continues or renews an incident of alleged research misconduct that occurred before the six-year limitation through the citation, republication or other use for the potential benefit of the Respondent of the research record that is alleged to have been fabricated, falsified, or plagiarized.
 - Health or safety of the public exception. If a federal oversight agency with appropriate jurisdiction or the institution, following consultation with said federal agency, determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.
 - “Grandfather” exception. If the University received the allegation of research misconduct before the effective date of this Policy.
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Section 2. - STAGES

Stage 1. Initial Contact

Upon receipt of a report of misconduct, the Vice President for Research (VPR) or designated Research Integrity Officer (RIO) will:

- Explain the rights of the individual (or institution/agency) making the initial allegation or whistleblower wishing to make the report, (unless made anonymously), and, if applicable, the University’s obligations to the whistleblower; (Refer to Whistleblower Protection Policy.)
- Identify the area of activity;
- Notify the individual making the initial allegation that, if the report has not been made in written form, it will be put in writing by the VPR. The individual making the initial allegation will be encouraged to provide as much detail as possible in this initial allegation;
- Inform the individual making the initial allegation that the report may be submitted anonymously. However, the individual making the initial allegation must also be informed that confidentiality cannot be guaranteed, and that their identity may be revealed on a need-to-know basis (or may be inferred) during the investigation;
- Notify the individual making the initial allegation that, once a report is made known to an individual in the University compliance structure, it cannot be withdrawn;
- Notify the individual making the initial allegation that the VPR will keep a written log of all reports; and
- Notify the individual making the initial allegation that, in accordance with federal policies on research misconduct, the individual should not participate in the fact-

finding phase, or in any other aspect of the determination of misconduct, other than as a witness.

Stage 2. Nature of an Investigation by the Faculty Committee

- A. The VPR will conduct an administrative review, and then refer the matter to a Faculty Committee for investigation. The criteria warranting an investigation are as follows:
- There is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; and
 - Preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance.
- B. The Committee will consist of five senior scientists at the University. Upon receipt of an allegation, the VPR will select the committee members in consultation with the Dean of a school or college(s) where research is similar to that in which the allegation is conducted. The Research Integrity Officer will serve, ex-officio, as a non-voting member of the Committee, and will be Executive Secretary for the Committee.
- C. The VPR will make a reasonable effort to prevent any real, or apparent, conflict of interest on the part of the members of the Committee. An opportunity will be provided to challenge the composition of the Committee by the whistleblower or the Respondent(s). If it is determined by the VPR that there is a reasonable basis for the challenge, the composition of the Committee may be altered.
- D. The Respondent(s) will be notified immediately by the Committee, through the VPR, of the nature of the charges, and that an inquiry has begun. If the investigation subsequently identifies additional Respondent(s), the Committee, through the VPR, will notify the additional Respondent(s) of the nature of the charges, and that an investigation has been initiated.
- E. Within 30 days of finding that an investigation is warranted, but before the investigation is started, the University, through the VPR, will provide the federal/state funding agencies with a statutory right of notification, with the written finding by the VPR, and a copy of the inquiry report which will include the following information:
- The name and position of the Respondent(s);
 - A description of the allegations of research misconduct;
 - The source of research support, including, for example, grant numbers, grant applications, contracts, and publications listing the agency's support;
 - The basis for recommending that the alleged actions warrant an investigation;
 - Any comments on the report by the Respondent(s) or the complainant. Upon request, the University will, through the VPR, provide the following information to agencies having a statutory right:
 - A copy of this Policy;
 - The charges to consider during the investigation;

- The research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents.
- F. On or before that date on which the Respondent(s) is notified or the investigation begins, whichever is earlier, the VPR will promptly take all reasonable and practical steps to obtain custody of 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 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. In the event that the Respondent(s) do not cooperate with requests for research record sequestration, the VPR has the authority to enter any University location, accompanied by the University Police, to accomplish the sequestration. Where appropriate, the Respondent(s) will be provided copies of, or reasonable, supervised access to the research records.

The research records and evidence shall be maintained as required by regulation.

- G. The investigation by the Committee will be conducted in confidence, and should be completed within 60 calendar days of the initiation of the investigation. Under unusual circumstances, a longer period may be warranted. This period of extension should not exceed 30 days, and the basis for the extension must be explained in the Committee's report of the investigation.
- H. The appropriate Department Head and Dean will be notified when an investigation is undertaken; testimony from the Department Head and Dean will either be solicited at the discretion of the Committee, or offered by the Department Head or Dean at his/her discretion.
- I. If requested by the Committee, at the request of the VPR, the Provost will make legal counsel available to the Committee.

Stage 3. Conduct of the Investigation by the Faculty Committee

- A. The investigation will be conducted by all members of the Committee. If the Committee does not have the requisite scientific expertise to carry out the inquiry, it may solicit additional expertise.
- B. The Respondent(s) has the right to hear the allegation, to raise written questions, and to testify, accompanied by a union representative, if desired, on all matters relevant to the inquiry. On the other hand, the Respondent(s) may choose not to participate in the review.
- C. The Committee will examine data books, records, publications and other research records relevant to the charge of misconduct. The investigation will be confidential, and best efforts will be made to protect the privacy of the individual(s) involved in

the investigation. The Committee will use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the allegations. The Committee will:

- Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practicable, including participation of persons with appropriate scientific expertise who do not have conflicts of interest with the persons or the research involved with the inquiry or investigation;
- 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;
- 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;
- Pursue all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

The Respondent(s) has the right to:

- Give testimony on all aspects of the report by the Committee and on all of the evidence acquired by the Committee;
- Raise written questions and demand answers in written form, either individually or through their representative, from the individuals who made the original allegations (assuming the identity of those individuals is known to the Committee);
- Examine in writing or orally, those who give testimony to the Committee;
- Call witnesses, and to be represented by legal counsel, as appropriate.

The Respondent(s) may choose not to participate in the investigation, but do not have the right to refuse to be interviewed by the Committee. An investigation should ordinarily be completed within 60 calendar days of its initiation. This includes:

- Conducting the investigation,
- Preparing the report of findings,
- Making that report available for comment by the subject(s) of the investigation,
- Submitting the report to the applicable federal oversight agencies.

D. Evidentiary Standards. The following evidentiary standards apply to findings made under this Policy:

Standard of Proof.

- A finding of research misconduct must be proved by a preponderance of the evidence.

Burden of Proof.

- The University has the burden of proof for making a finding of research misconduct. The destruction, absence of, or Respondent's failure to provide

research records adequately documenting the questioned research is evidence of research misconduct where the University establishes by a preponderance of the evidence that the Respondent(s) intentionally, knowingly, or recklessly had research records and destroyed them, had the opportunity to maintain the records but did not do so, or maintained the records and failed to produce them in a timely manner, and that the Respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.

- The Respondent(s) has the burden of going forward with the burden of proving, by a preponderance of the evidence, any and all affirmative defenses raised. In determining whether the University has carried the burden of proof imposed by this part, the Committee shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the Respondent.
- The Respondent(s) has the burden of going forward with and proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose administrative actions following a research misconduct proceeding.

Stage 4. Findings of the Investigation by the Faculty Committee

A. Grounds for Findings of Research Misconduct require that:

- There is a significant departure from accepted practices of the relevant research community; and
- The misconduct be committed intentionally, knowingly, or recklessly; and
- The allegation be proven by a preponderance of the evidence.

B. The Committee will prepare a report of its investigation, including a summary of the evidence reviewed, interview summaries, whether the allegation was made in good faith, and the conclusions of the investigation. The Respondent(s) will be offered an opportunity to comment on the findings, and those comments shall be included in the report.

C. Confirmatory finding. Should the Committee find by majority vote that the allegation did represent research misconduct, a recommendation for sanctions will be made to the VPR in its written report.

D. Non-confirmatory Finding. If the inquiry by the Committee determines that the allegations are unfounded, this is conveyed in the Committee's final report. The Respondent(s) may request that the conclusions of the investigation be made public. However, every reasonable effort will be made not to identify publicly the individual making the initial allegation. In addition, the University will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, made the initial allegation.

The VPR shall keep sufficiently detailed documentation of inquiries to permit a later assessment by agencies with a statutory right of the reasons why the University decided the allegation did not represent research misconduct.

- E. Notification of the Committee's Findings. The Committee's findings, whether confirmatory or non-confirmatory, are written in a final report and sent to the VPR with a copy to the Respondent(s). The Director of Audit, Compliance and Ethics, the Dean, the Department Head, and the individual making the initial allegation or whistleblower (if known) will be sent notification of the disposition of the review by the VPR.
- F. Report of the Investigation. The Committee will report its findings and recommendations to the VPR, the Dean(s) of the involved School(s), the appropriate Department Head(s), the Director of Audit, Compliance and Ethics, applicable federal oversight offices, and the Respondent(s). Prior to submitting this report, however, the Respondent(s) will be given an opportunity to comment on the findings, and those comments will be included in the final report. The comments of the Respondent(s), if any, must be submitted to the Committee within 15 days of the date on which the Respondent(s) received the draft investigation report. The VPR will concurrently give the Respondent(s) a copy of, or supervised access to, the evidence on which the report is based.

The Respondent(s) will be provided with a copy of the final report.

The final investigation report must be in writing and must include:

- The nature of the allegations of research misconduct.
- A description and documentation of the project's funding support, including, for example, any grant numbers, grant applications, contracts, and publications listing support.
- A description of the specific allegations of research misconduct for consideration in the investigation.
- The institutional policies and procedures under which the investigation was conducted.
- Identification and summary of the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed.
- A finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation.
- Consideration of any comments made by the Respondent on the draft investigation report.

Following a finding of misconduct, the investigation report must:

- Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
- Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent;
- Identify the specific funding support;

- Identify whether any publications need correction or retraction;
- Identify the person(s) responsible for the misconduct; and
- List any current support or known applications or proposals for support that the Respondent has pending with all extramural agencies.

G. Responses to the Report

Allegation is Confirmed:

If the allegation of misconduct is confirmed by the vote of a majority of the members of the Committee, appropriate action will be taken by the VPR with advice from the Dean of the involved School. Funding agencies directly involved in the support of the research in question will be notified by the VPR that an allegation of misconduct has been confirmed by formal investigation.

If the research involves human subjects, the Institutional Review Board and the Office of Research Compliance will be notified of the findings. Reports to funding agencies will include the following:

- Investigation Report, including all attachments, and any appeals;
- Final institutional action, including a statement of whether the University found research misconduct, and, if so, who committed the misconduct;
- Findings, including a statement of whether the University accepts the investigation's findings;
- Institutional administrative actions, including any pending or completed administrative actions against the Respondent(s).

Allegation is not Confirmed:

In this case, the University will undertake reasonable efforts to ensure that the reputation of the Respondent(s) is not harmed. The Respondent(s) has the right to request widespread dissemination of the findings, and the University will exercise its best efforts to do so. Reasonable efforts will also be made not to identify the individual(s) making the allegation. The University will make reasonable efforts to protect the positions and reputations of persons who, in good faith, made allegations of research misconduct.

- H. All records of the Committee will be sealed and deposited with the VPR, who will keep these records secure according to the State of Connecticut Records Retention Schedule, or seven (7) years, whichever is longer. If required by federal regulation, documentation of the Committee's investigation will be made available to the appropriate federal oversight office. These records, upon appropriate and reasonable request, will be made available to those agencies which have a statutory right of access.
- I. Early Termination of Investigation. Should the Committee decide to terminate the investigation for any reason, a report of such planned termination, including a description of the reasons for such termination, will be made to the appropriate deferral oversight office.

Stage 5. Failure to Cooperate

When individuals including the Respondent(s) and any other individuals fail to cooperate with the Committee, the review process will be conducted without their participation.

Stage 6. Interim Administrative Actions

- A. In the event that any of the following conditions are determined to exist, the VPR will be responsible for immediate reporting to the relevant research sponsors:
- There is an immediate health hazard involved;
 - There is an immediate need to protect federal or other funds or equipment;
 - 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;
 - It is probable that the alleged incident will be reported publicly;
 - There is a reasonable indication of possible criminal violation, in which case relevant research sponsors will be notified within 24 hours, if so required by law.
- B. A copy of such report shall be sent to the appropriate Dean(s) of the involved School(s), and the Department Head(s).
- C. In situations where there is an apparent need to take additional interim administrative actions to protect Federal funds and insure that the purposes of the Federal financial assistance are carried out, the VPR will be responsible for taking such action. While circumstances may require immediate action, the administration must inform the Committee of its action in a timely manner. The Committee will review the administration's action and provide its recommendation as to its propriety.
- D. The VPR will, as required by appropriate federal law, notify the appropriate federal oversight office(s) that a specific interim action has been taken in a given investigation, what that action is and the rationale for taking it.
- E. The VPR will advise the appropriate federal oversight office of any developments during the course of the investigation which disclose facts that may affect current or potential Department of Health and Human Services (DHHS) or other federal funding for individual(s) under investigation or that the federal oversight office needs to know to ensure appropriate use of federal funds.
- F. In the event that the Committee is unable to complete its investigation in 60 calendar days, the VPR will submit a written request for extension, as required by federal regulation, with the appropriate federal oversight office. Such a request will include an explanation for the delay, an interim report on progress of the investigation, an

outline of what remains to be done, and an estimated date of completion of the investigation.

Stage 7. Sanctions

Sanctions and penalties for those engaged in fraudulent scientific activities will be recommended by the VPR, in consultation with the appropriate Deans(s) and Department Head(s). The Provost will be informed of these sanctions and penalties. Sanctions may include, but are not restricted to:

- Letter of reprimand
- Notification to professional and/or scientific societies
- Notification to journals which may have published research determined to be fraudulent
- Reassignment of duties
- Termination of grant support
- Termination of fellowship support
- Adjustment of research space allocation
- Adjustment of salary
- Suspension
- Dismissal

When required by relevant federal regulation, a report of the sanctions imposed will be provided to the appropriate federal oversight office.

Stage 7. Appeals of Process and/or Sanctions

Appeals by the Respondent(s) can be made in accordance with the University of Connecticut's Laws and By Laws for faculty or non-faculty professional staff or through applicable union contracts. The appeals process will not delay the completion of the investigation past the normal 60 calendar day completion deadline. However, because the appeals process could result in a reversal; modification of the findings; or, sanctions applied, the process must be completed within 30 days of filing by the Respondent. If the University cannot complete the appeals process within this 30 day limit, the VPR will write to the applicable agency with statutory-oversight of the research misconduct investigation process, requesting an extension of this time limit, and providing an explanation for the request.

Promulgation of the Policy and Procedure for Review of Alleged Misconduct of Research

- A. All faculty members, research assistants, and associates, graduate students, postdoctoral fellows, technicians and administrative staff involved in the University's research program will be given a copy of the Policy and Procedures. The University's Human Resources Department will also provide all new employees with a copy of this document upon engagement.

B. Each academic department, research unit and graduate degree program should conduct a brief annual training in the Policy and Procedures.

C. The policy is also available on the University's website:
<http://compliance.uconn.edu/misconduct.cfm>.

Revision of Policy Guidelines

This document will be periodically reviewed and revised.