



COMPLAINTS OF RESEARCH MISCONDUCT

Research
4-70125
December 2016

PURPOSE:

The integrity of the University and its academic endeavors require that faculty, researchers, staff, students, and other members of its community be dedicated to maintaining the highest ethical standards in their professional activities. In recognition of this need, Oklahoma State University Center for Health Sciences (OSU CHS) has developed the following policy to respond to allegations of research misconduct and to inform members of the community of the appropriate channels for bringing such matters to the attention of the University.

POLICY:

All institutional members will report observed, suspected, or apparent research misconduct to the Research Integrity Officer (RIO) appointed by the Vice President for Research. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he/she may meet with or contact the RIO to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

This policy applies to all students, tenure-track and non-tenure track faculty as outlined in Section 1.5 Appointment for Non-Tenure-Track Faculty in the *OSU-CHS Reappointment, Promotion, and Tenure Guidelines*, and administrative, professional and classified staff at OSU CHS.

This statement of policy and procedures is intended to carry out this institution's responsibilities under the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93. This document applies to allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results) involving:

- A person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with this institution; AND
- (1) PHS support biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information, (2) applications or proposals for PHS support for biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of PHS supported research, research training or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for PHS funds resulted in a grant, contract, cooperative agreement, or other form of PHS support.

This statement of policy and procedures does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the institution or PHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR 93.105(b).



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DEFINITION:

"Complainant" means the person or persons making allegations of research misconduct. The Complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation.

"Deciding Official (DO)" means the institutional official who makes final determinations on allegations of research misconduct and any institutional administrative actions. The Provost will normally act as the DO or may appoint a DO. This person will not be the same individual as the Research Integrity Officer and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. A DO's appointment of an individual to assess allegations of research misconduct, or to serve on an inquiry or investigation committee, is not considered to be direct prior involvement.

"Fabrication" means making up data or results and recording or reporting them.

"Falsification" means 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.

"Formal Investigation" means the formal examination and evaluation of all relevant facts to determine if scientific misconduct has occurred.

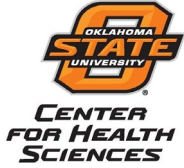
"Initial Inquiry" means information gathering and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants a Formal Investigation.

"Plagiarism" means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

"Research Integrity Officer (RIO)" means the institutional official responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct, are covered by 42 CFR Part 93, and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified; (2) overseeing initial inquiries and Formal Investigations; and (3) the other responsibilities described in this policy.

"Research Misconduct" means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting research. It does not include honest error or differences in opinion.

"Respondent" means the person or persons (faculty, staff or students) who are alleged to have committed scientific misconduct.



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PROCEDURE:

I. PRELIMINARY REVIEW AND INITIAL INQUIRY

- A. Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified, and whether the allegation falls within the definition of research misconduct. An inquiry must be conducted if these criteria are met.
- B. The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the Complainant, Respondent, or other witnesses, or gather information beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the Respondent is notified of the allegation, obtain custody of, inventory, and sequester all known research records and evidence needed to conduct the research misconduct proceeding.
- C. If the RIO determines that the criteria for an inquiry are met, he/she will immediately initiate the Initial Inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An Initial Inquiry does not require a full review of all the evidence related to the allegation.
- D. At the time of or before beginning an Initial Inquiry, the RIO must make a good faith effort to notify the Respondent in writing. If the inquiry subsequently identifies additional Respondents, they must be notified in writing. On or before the date on which the Respondent is notified, or an inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence need 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 research 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.
- E. Upon making a determination that allegations warrant further review, the RIO, in consultation with other institutional officials as appropriate, will appoint an Initial Inquiry Committee as soon as is practical. The Inquiry Committee shall select one of its members to serve as Chair. The Initial Inquiry Committee must consist of three (3) tenured faculty members of the University holding academic rank at least equal to that of the Respondent accused of research misconduct. These individuals should not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate research expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. The purpose of the Initial Inquiry Committee is to determine whether sufficient evidence exists to warrant the convening of a Formal Investigation.
- F. The RIO will prepare a charge for the Initial Inquiry Committee that:



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1. Sets forth the time for completion of the inquiry;
 2. Describes the allegations and any related issues identified during the allegation assessment;
 3. States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent, Complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;
 4. States that an investigation is warranted if the committee determines:
 - a) There is a reasonable basis for concluding that the allegation falls within the definition of research misconduct, and
 - b) The allegation may have substance, based on the committee's review during the inquiry.
 5. Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy.
- G. At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.
- H. The Initial Inquiry Committee will normally interview the Complainant, the Respondent, and key witnesses as well as examine relevant research records and materials. The Initial Inquiry Committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether a formal investigation is warranted based on the criteria of this policy. The scope of the Initial Inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if an admission of research misconduct is made by the Respondent, misconduct may be determined at the Initial Inquiry stage.
- I. The Chair of the Inquiry Committee will prepare a formal written report regarding the findings of the Initial Inquiry.
- J. The Initial Inquiry report shall contain, at the minimum:
 1. A recitation of the evidence reviewed;
 2. The identity of the persons interviewed;
 3. A summary of the substance of such interviews;
 4. Findings of fact based upon such evidence and interviews; and
 5. A recommendation to the RIO as to whether sufficient evidence exists to warrant conducting a Formal Investigation into the allegations in question.
- K. Unless admitted by the Respondent, the recommendation will not address the ultimate determination of whether research misconduct has occurred, but only if the matter should be processed further.

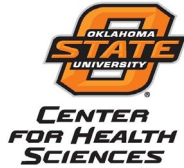


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II. FORMAL INVESTIGATION

- A. The Formal Investigation must begin within thirty (30) calendar days after the determination by the DO that an investigation is warranted. The purpose of the Formal Investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The Formal Investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or it affects research that forms the basis for public policy, clinical practice, or public health practice.
- B. On or before the date on which the investigation begins, the RIO must: (1) notify the Provost, the Vice President for Research, and the appropriate Academic Dean of the DO's decision to begin the Formal Investigation and provide a copy of the Initial Inquiry report; and (2) notify the Respondent in writing of the allegations to be investigated. The RIO must also give the Respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the Initial Inquiry or in the initial notice of investigation.
- C. 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 known research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the Initial 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 Initial Inquiry stage or the identification of records during the Initial Inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the Initial Inquiry.
- D. The RIO, in consultation with other institutional officials as appropriate, will appoint a Formal Investigation Committee and the committee chair as soon after the beginning of the investigation as is practical. The Formal Investigation Committee must consist of at least three (3) tenured faculty members of the University holding academic rank at least equal to that of the Respondent accused of research misconduct. These individuals should not have unresolved personal, professional or financial conflicts of interest with those involved with the investigation and should include individuals with appropriate research expertise to evaluate the evidence and issues related to the allegation, interview the Respondent and Complainant and conduct the investigation.
- E. The RIO will define the subject matter of the investigation in a written charge to the committee that:
 1. Describes the allegations and related issues identified during the inquiry;
 2. Identifies the Respondent;



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3. Informs the committee that it must conduct the investigation as prescribed in Section II.G.;
 4. Defines research misconduct;
 5. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
 6. Informs the committee that in order to determine that the Respondent committed research misconduct it must find that a preponderance of the evidence establishes that:
 - a) Research misconduct, as defined in this policy, occurred (Respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest errors or a difference of opinion);
 - b) The research misconduct is a significant departure from accepted practices of the relevant research community; and
 - c) The Respondent committed the research misconduct intentionally, knowingly, or recklessly.
 7. Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy.
- F. The RIO will convene the first meeting of the Formal Investigation Committee to review the charge, the initial inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The Formal Investigation Committee will be provided a copy of this statement of policy and procedures. The RIO will be present or available throughout the investigation to advise the committee as needed.
- G. The Formal Investigation Committee and the RIO must:
1. 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 each allegation;
 2. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
 3. Interview each Respondent, Complainant, and any other available person who has been reasonably identified as having information regarding 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; and
 4. Pursue diligently 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.
- H. The Formal Investigation is to be completed within 120 days, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to the DO. However, if the RIO determines the investigation will



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not be completed within this 120-day period, he/she will submit to the DO a written request for an extension, setting forth the reasons for delay. The RIO will ensure that periodic progress reports are filed with the DO if the request for an extension is granted and directs the filing of such reports.

In order to meet the requirements of this section, all parties have a responsibility to respond in a timely manner.

III. THE INVESTIGATION REPORT

- A. The Formal Investigation Committee and the RIO are responsible for preparing a written draft report of the investigation that:
 1. Describes the nature of the allegation of research misconduct, including the identification of the Respondent;
 2. Describes and documents the federal, state, private, and/or other sponsors of support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing the sponsor of support;
 3. Describes the specific allegations of research misconduct considered in the investigation;
 4. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
 5. Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must:
 - a) Identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly;
 - b) Summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the Respondent, including any effort by Respondent to establish by a preponderance of the evidence that he/she did not engage in research misconduct because of honest error or a difference of opinion;
 - c) Identify the specific sponsored support;
 - d) Identify whether any publications or other materials need correction or retraction;
 - e) Identify the person(s) responsible for the misconduct; and
 - f) List any current support or known applications or proposals for support that the Respondent has pending with non-PHS federal agencies.
- B. The RIO must give the Respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The Respondent will be allowed at least 30 days from the date he/she receives the report to submit comments to the RIO. The Respondent's comments must be included and considered in the final report.
- C. In distributing the draft report, or portions thereof, to the Respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available and



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- may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.
- D. The RIO will assist the Formal Investigation committee in finalizing the draft investigation report, including ensuring that the Respondent's comments are included and considered, and transmit the final investigation report to the DO. The DO will determine in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the Formal Investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the Formal Investigation committee. Alternatively, the DO may return the report to the Formal Investigation committee with a request for further fact-finding or analysis.
 - E. When a final decision on the case has been reached, the RIO will normally notify both the Respondent and the Complainant in writing. After informing the appropriate officials, the DO will determine whether funding sources, law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the Respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

IV. APPEALS

- A. If the sanctions involve the recommendation for termination of employment, the applicable academic termination procedures will be initiated. The faculty Respondent shall be notified in writing of the sanctions from the Provost and of the right of the faculty Respondent to appeal the imposition of sanctions as set forth in the "Policy Statement to Govern Appointments, Tenure, Promotions, and Related Matters of the Faculty of Oklahoma State University."
- B. If the Respondent is a member of the administrative/professional or classified staff of the University, then the staff Respondent shall be notified in writing of the sanctions from the applicable Dean or Vice President and of the right of the staff Respondent to appeal the imposition of sanctions as set forth in the University Policies and Procedures regarding staff grievances.
- C. If the Respondent is a graduate student, the student Respondent shall be subject to the Academic Integrity Policies and Procedures, and could be subject to immediate dismissal from his/her program. Graduate students have the right to appeal the imposition of sanctions through an academic integrity hearing, using the process outlined in the Academic Integrity Policies and Procedures.
- D. If the Respondent is a medical student, the student Respondent shall adhere to AOA code of ethics and OSU CHS Academic Standards. Medical students have the right to appeal the imposition of sanctions through the process outlined in the OSU CHS Academic Standards Handbook.



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V. NOTICE TO PROVOST OF INSTITUTIONAL FINDINGS AND ACTIONS

- A. Unless an extension has been granted, the RIO must, at his/her earliest convenience, submit the following to the Provost:
1. A copy of the final investigation report with all attachments and any appeal;
 2. A statement of whether the institution accepts the findings of the investigation report and the outcome of the appeal, if any;
 3. A statement of whether the institution found misconduct and, if so, who committed the misconduct; and
 4. A description of any pending or completed administrative actions against the Respondent.

VI. MAINTAINING RECORDS FOR REVIEW BY PROVOST

- A. The RIO must maintain and provide to Provost upon request “records of research misconduct proceedings.” Records of research misconduct proceedings must be maintained in a secure manner for seven (7) years after completion of the proceeding or the completion of any funding proceeding involving the research misconduct allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by the Formal Investigation committee to carry out its review of an allegation of research misconduct or of the institution’s handling of such an allegation.

VII. COMPLETION OF CASES; REPORTING PREMATURE CLOSURES

- A. Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO must notify the Provost in advance if there are plans to close a case at the initial inquiry, formal investigation, or appeal stage on the basis that Respondent has admitted responsibility for a violation of the policy, a settlement with the Respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that a formal investigation is not warranted; or (2) a finding of no misconduct at the investigation stage, which must be reported to the Public Health Service Office of Research Integrity (ORI), as prescribed in this policy.

VIII. INSTITUTIONAL ADMINISTRATIVE ACTIONS

- A. If the DO determines that research misconduct is substantiated by the findings, he/she will determine the appropriate actions to be taken after consultation with the RIO. The administrative actions may include, but are not limited to:
1. Withdrawal or correction of all pending or published abstracts, papers, reports or other materials emanating from the research where research misconduct was found;



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2. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, expulsion, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
3. Restitution of funds to the grantor agency as appropriate; and
4. Other action appropriate to the research misconduct;
5. Classified, administrative and professional staff are subject to corrective action up to and including termination.
6. Students are subject to sanctions in the Student Code of Conduct.

IX. OTHER CONSIDERATIONS

- A. The termination of the Respondent's institutional employment or student capacity by resignation, probation, expulsion or otherwise, before or after an allegation of possible research misconduct has been reported will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution's responsibilities.
- B. If the Respondent, without admitting to the misconduct, elects to resign his/her position or withdraw as a student after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the Respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use his/her 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.
- C. Following a final recommendation of no research misconduct, including Office of Research Integrity (ORI) concurrence where required, the RIO must, at the request of the Respondent, undertake all reasonable and practical efforts to restore the Respondent's reputation. Depending on the particular circumstances and the views of the Respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the Respondent's personnel file, student records, etc. Any institutional actions to restore the Respondent's reputation must first be approved by the DO.
- D. During the research misconduct proceeding and upon its completion, regardless of whether the institution or ORI determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any Complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding (see Board of Regents' Policy 3.11, Non-Retaliation). The DO will determine, after consulting with the RIO and with the Complainant, witnesses or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to



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counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

- E. If relevant, the DO will determine whether the Complainant's allegations of research misconduct were made in good faith or whether a witness or committee member acted in good faith. If the DO determines there was an absence of good faith he/she will determine whether any administrative action should be taken against the person or persons who failed to act in good faith.

REFERENCES:

42 CFR PART 93

DOCUMENT HISTORY:

Adapted from OSU Policy 4-0125

Approved by OSU CHS executive team: December 2016