

Research Misconduct Policy

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100.00 Policy on Research Misconduct

It is the policy of University of Wisconsin-Whitewater to require the highest ethical standards in the research of its faculty and staff; to inquire into and, if necessary, investigate and resolve promptly and fairly all instances of alleged or apparent misconduct; and, as appropriate, to comply in a timely manner with requirements for reporting cases of possible misconduct to sponsoring agencies when sponsored research funds are involved. Misconduct in research shall be considered a breach of contract between the employee and the University.

This policy applies to any research activity undertaken by faculty or staff. Cases of research/academic misconduct involving students are subject to the disciplinary rules governing students, but may be reviewed, where appropriate, under this policy.

In addition to the research itself, this policy applies to:

1. Applications or proposals for extramural or intramural funding of research, research training or activities related to research, or training, such as the dissemination of research information;
2. Plagiarism of records produced in the course of research or activities related to that research or training.

This policy addresses only research misconduct as defined herein. Other misconduct such as reckless disregard for accuracy, failure to supervise, and other serious deficiencies—but not within the definition

of research misconduct—may constitute breaches of other ethical and professional standards and shall be addressed by the cognizant dean, director, provost, or vice president as provided in other applicable policies.

200.00 Definitions

The following definitions apply in this policy:

"Inquiry" means information gathering and initial fact-finding to determine if the allegation or apparent instance of misconduct warrants an investigation.

"Investigation" means a formal presentation, examination and evaluation of all relevant facts to determine whether misconduct has occurred, the severity of the alleged misconduct and its impact, and the recommendations for specific actions to be taken to address the misconduct.

"Research" means a systemic investigation designed to develop or contribute to generalizable knowledge including, but not limited to, scientific, applied, behavioral and social-sciences research and/or any such activity for which funding is available from federal agencies.

"Research misconduct" means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

1. Fabrication is making up data or results and recording or reporting them.
2. Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
3. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
4. Research misconduct does not include honest error or differences of opinion.

For purposes of this research misconduct policy, the definitions found in 42 CFR Part 93 shall apply in addition to the definitions above. To the extent the definitions are restricted to U.S. Public Health Service research, the university hereby adopts the definitions to apply to all research misconduct regardless of funding source. "ORI" as used herein means the U.S. Department of Health and Human Services Office of Research Integrity.

300.00 Reporting the Allegation

An allegation of misconduct in research, defined as a disclosure of possible research misconduct through any means of communication, should be made to the Director of the Office of Research and Sponsored Programs). Promptly after receiving a disclosure of possible research misconduct through any means of communication, the ORSP Director shall assess the allegation to determine if an inquiry (i.e., an initial review of the evidence to determine if the criteria for conducting an investigation have been met) will be conducted. An inquiry is warranted if:

1. it meets the definition of research misconduct;
2. it involves either the research, applications for research support, or research records; and,
3. the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

310.00 Inquiry

310.01 Appointing the Inquirer

The ORSP Director shall appoint an inquirer who shall complete the inquiry within 60 calendar days of its initiation, unless circumstances warrant a longer period. The inquirer shall conduct the review, prepare the inquiry report, solicit comments on the report from the respondent, consider the respondent's comments, and issue the final inquiry report within the 60 day period. If the inquiry takes longer than 60 days to complete, the inquirer shall include documentation of the reasons for the delay in the inquiry record.

The purpose of the inquiry is to determine whether there is reasonable cause to believe misconduct occurred and whether a formal investigation is recommended.

Upon appointment, the inquirer will receive a briefing from the ORSP Director and the University Legal Counsel on the relevant misconduct guidelines, federal regulations, and the legal parameters of the inquiry.

310.02 The Inquiry Report

The inquiry report shall contain the following information: (1) The name and position of the respondent(s); (2) A description of the allegations of research misconduct; (3) The federal or sponsor support involved, including, for example, grant numbers, grant applications, contracts, and publications listing support; (4) The basis for recommending that the alleged actions warrant an investigation; and (5) Any comments on the report by the respondent or the complainant.

310.03 The Inquiry Determination

The ORSP Director will make a written determination of whether an investigation is warranted. In making his or her determination, the ORSP Director may take into account the information provided by the Inquirer and any oral or written statements made by the person accused of misconduct. The ORSP Director may choose not to proceed with an Investigation if there is no reason to believe the misconduct occurred or if the person accused of misconduct admits the misconduct occurred and it is determined that an investigation will not likely uncover further information necessary to reach a final conclusion regarding the allegation.

ORSP Director shall notify the person who reported the alleged misconduct and the person accused of misconduct of his or her determination and recommendations in writing. If an investigation is to be conducted, the notification shall include a clear statement of the allegations to be investigated by the investigators.

If a decision not to investigate is rendered, the complainant may appeal to the President who will render the final decision of the University.

The ORSP Director will notify granting agencies supporting the research/creative activity under investigation as may be required by the granting agency, state or federal law or regulations.

400.00 The Investigation

400.01 Appointment of Investigators

If the inquiry results in a determination that an investigation is warranted, the ORSP Director shall appoint investigators to conduct the investigation. The investigator may be either:

1. a group of institutions, professional organizations, or mixed groups which will conduct research misconduct proceedings for other institutions, or
2. other person that the ORSP Director reasonably determines to be qualified by practice or experience to conduct research misconduct proceedings.

400.02 Investigation Timelines

The appointed Investigator(s) shall begin the investigation within 30 calendar days of the ORSP Director's written determination. On or before the date on which the investigation begins, the ORSP Director will send the inquiry report and the written determination to the Office of Research Integrity [ORI], or other federal agency, if required under federal regulations.

The Investigator(s) shall use best efforts to complete the investigation within 120 calendar days of the date on which it began, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to ORI, if applicable.

If it becomes apparent that UWW cannot complete the investigation within that period, the ORSP Director shall promptly request an extension in writing from Office of Research Integrity, if applicable. This time period does not apply to separate personnel actions which may be undertaken as a result of the investigation.

400.03 Conduct of the Investigation

In conducting all investigations, UWW shall:

1. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all reasonably available research records and evidence relevant to reaching a decision on the merits of the allegations;
2. 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 investigation;

3. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation by the investigator(s), including any evidence of additional instances of possible research misconduct, and continue the investigation to completion; and
4. Otherwise comply with the requirements for conducting an investigation in the federal regulations that may apply based upon the funding source for the research.

400.04 Requirements for Findings of Research Misconduct

A finding of research misconduct under this policy requires that:

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

400.05 Investigation Report

The Investigator(s) shall prepare the draft and final institutional investigation reports in writing and provide the draft report for comment by respondent in a manner consistent with applicable federal regulations. The final investigation report shall:

1. Describe the nature of the allegations of research misconduct;
2. Describe and document the federal, state or private financial support, including, any grant numbers, grant applications, contracts, and publications listing federal, state or sponsor support;
3. Describe the specific allegations of research misconduct considered in the investigation;
4. Include the institutional policies and procedures under which the investigation was conducted;
5. Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody, but not reviewed. The report should also describe any relevant records and evidence not taken into custody and explain why.
6. Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and if misconduct was found,
 - a. identify it as falsification, fabrication, or plagiarism and whether it was intentional, knowing, or in reckless disregard,
 - b. summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent's explanations,
 - c. identify the specific federal, state or other grant support for the research;
 - d. identify any publications that 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(s) has pending with federal, state or private agencies; and
7. Include and consider any comments made by the respondent and complainant on the draft investigation report.

Upon receipt of the report, the ORSP Director shall determine whether the institution accepts the findings in the report. If any finding is not accepted, the finding and the reasons why it is not accepted shall be identified and included in a written report by the ORSP Director.

UWW shall maintain and provide to ORI upon request all relevant research records and records of our research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.

500.00 Confidentiality and Protection of Reputations

500.01 Confidentiality

To the extent allowed by law, UWW shall maintain the identity of respondents and complainants securely and confidentially and shall not disclose any identifying information, except to: (1) those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) the Office of Research Integrity, if applicable, as it conducts its review of the research misconduct proceeding and any subsequent proceedings.

To the extent allowed by law, any information obtained during the research misconduct proceeding that might identify the subjects of research shall be maintained securely and confidentially and shall not be disclosed, except to those who need to know in order to carry out the research misconduct proceeding.

In conducting any inquiry or investigation into allegations of misconduct, the University shall protect, to the maximum extent possible under the law, the privacy of individuals who, in good faith, report apparent misconduct.

500.02 Restoring Reputations

1. Respondents. UWW shall undertake all reasonable, practical, and appropriate efforts to protect and restore the reputation of any person alleged to have engaged in research misconduct, but against whom no finding of research misconduct was made, if that person or his/her legal counsel or other authorized representative requests that UWW do so.
2. Complainants, Witnesses, and Committee Members. MSLJ shall undertake all reasonable and practical efforts to protect and restore the position and reputation of any good faith complainant, witness, or committee member and to counter potential or actual retaliation against those complainants, witnesses and committee members.

600.00 Appointment of Impartial Inquirer or Investigator

UWW shall take all reasonable steps to ensure an impartial and unbiased research misconduct proceeding to the maximum extent practicable. UWW shall select those conducting the inquiry or investigation on the basis of scientific expertise that is pertinent to the matter and, prior to selection, the ORSP Director or designee shall screen them for any unresolved personal, professional, or financial conflicts of interest with the respondent, complainant, potential witnesses, or others involved in the matter. Any such conflict which a reasonable person would consider to demonstrate potential bias shall disqualify the individual from selection.

A respondent may request disqualification of an inquirer or investigator upon filing of a timely and sufficient affidavit of personal bias, lack of independence, or other basis for disqualification. The affidavit must state the facts and the reasons for the belief that the inquirer or investigator should be disqualified and must be filed not less than 5 days from the date the respondent receives notice of appointment of the inquirer or investigator. The ORSP Director shall determine the matter and submit a written decision on the request for disqualification.

700.00 Notice to Respondent

During the research misconduct proceeding, UWW will provide the following notifications to all identified respondents:

1. **Initiation of Inquiry.** Prior to or at the beginning of the inquiry, the ORSP Director shall provide the respondent(s) with written notification of the inquiry and contemporaneously sequester all research records and other evidence needed to conduct the research misconduct proceeding. If the inquiry subsequently identifies additional respondents, they shall be promptly notified in writing.
2. **Comment on Inquiry Report.** The inquirer shall provide the respondent(s) an opportunity to comment on the inquiry report in a timely fashion so that any comments can be attached to the report.
3. **Results of the Inquiry.** The inquirer shall notify the respondent(s) of the results of the inquiry and attach to the notification copies of the inquiry report and these institutional policies and procedures for the handling of research misconduct allegations.
4. **Initiation of Investigation.** Within a reasonable time after the ORSP Director's determination that an investigation is warranted, but not later than 30 calendar days after that determination, the ORSP Director or designee shall notify the respondent(s) in writing of the allegations to be investigated. The ORSP Director or designee shall give respondent(s) written notice of any new allegations within a reasonable time after determining to pursue allegations not addressed in the inquiry or in the initial notice of the investigation.
5. **Scheduling of Interview.** The Investigator(s) will notify the respondent sufficiently in advance of the scheduling of his/her interview in the investigation so that the respondent may prepare for the interview and arrange for the attendance of legal counsel, if the respondent wishes.

6. Comment on Draft Investigation Report. The Investigator(s) shall give the respondent(s) a copy of the draft investigation report, and concurrently, a copy of, or supervised access to, the evidence on which the report is based and notify the respondent(s) that any comments must be submitted within 30 days of the date on which he/she received the draft report. The Investigator(s) shall ensure that these comments are included and considered in the final investigation report.
7. Appeal. Respondent shall be advised of his/her right to appeal the findings of the investigative report. The respondent may appeal the findings of the Investigative Report to the ORSP Director by filing a written appeal with the ORSP Director within 10 days of receipt of the report. The grounds for appeal would be that the report is not supported by the evidence, the policies were misapplied to the evidence or that new evidence that was not available to the Investigator should be considered in reaching a final decision. The respondent shall be given timely notification of the appeal process. Any appeal process must be completed within 120 days unless the institution has requested and received an extension from ORI. This 120 day deadline does not apply to institutional termination hearings that are conducted separately from the appeal process.

800.00 Maintenance and Custody of Research Records and Evidence

UWW shall take the following specific steps to obtain, secure, and maintain the research records and evidence pertinent to the research misconduct proceeding:

1. Either before or when the ORSP Director notifies the respondent of the allegation, UWW shall promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory those materials, and sequester them in a secure manner, except in those cases 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.
2. Where appropriate, give the respondent copies of, or reasonable, supervised access to the research records.
3. Undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding, including at the inquiry and investigation stages, or if new allegations arise, subject to the exception for scientific instruments in (1)above.
4. UWW shall maintain all records of the research misconduct proceeding, as defined in 42 CFR Section 93.317(a) (insert hyperlink), for 7 years after completion of the proceeding, or any ORI or HHS proceeding under Subparts 0 and E of 42 CFR Part 93 (copies attached), whichever is later, unless UWW transferred custody of the records and evidence to HHS, or ORI has advised us that UWW no longer needs to retain the records.

900.00 Interim Protective Actions

At any time during a research misconduct proceeding, UWW shall take appropriate interim actions to protect public health, federal funds and equipment, and the integrity of the supported research process.

The necessary actions will vary according to the circumstances of each case, but examples of actions that may be necessary include delaying the publication of research results, providing for closer supervision of one or more researchers, requiring approvals for actions relating to the research that did not previously require approval, auditing pertinent records, or taking steps to contact other institutions that may be affected by an allegation of research misconduct.

1000.00 Notification and Coordination with ORI

1000.01 Notifying ORI of the Decision to Open an Investigation and of Institutional Findings and Actions Following the Investigation

If the research misconduct allegations involve PHS research, the ORSP Director or designee shall provide ORI with the written finding by the ORSP Director and a copy of the inquiry report containing the information required by 42 CFR Section 93.309(a) [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=1256259b1812156feb6ce256e222e042&rgn=div8&view=text&node=42:1.0.1.8.71.3.30.10&idno=42c93.309\(a\)](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=1256259b1812156feb6ce256e222e042&rgn=div8&view=text&node=42:1.0.1.8.71.3.30.10&idno=42c93.309(a)).

Upon a request from ORI, UWW shall promptly send: (1) a copy of institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges for the investigation to consider.

The ORSP Director or designee shall promptly provide to ORI after the investigation: (1) A copy of the investigation report, all attachments, and any appeals; (2) A statement of whether the institution found research misconduct and, if so, who committed it; (3) A statement of whether the institution accepts the findings in the investigation report; and (4) A description of any pending or completed administrative actions against the respondent.

1000.02 Notifying ORI of Special Circumstances that May Require Protective Actions

At any time during a research misconduct proceeding, UWW shall notify ORI immediately if there is reason to believe that any of the following conditions exist:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
2. HHS resources or interests are threatened.
3. Research activities should be suspended.
4. There is a reasonable indication of violations of civil or criminal law.
5. Federal action is required to protect the interests of those involved in the research misconduct proceeding.

6. UWW believes the research misconduct proceeding may be made public prematurely, so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.
7. UWW believes the research community or public should be informed.

1000.03 Institutional Actions in Response to Final Findings of Research Misconduct

UWW will cooperate with and assist CR1 and HHS, as needed, to carry out any administrative actions HAS may impose as a result of a final finding of research misconduct by HAS.

1000.04 Cooperation with ORI

UWW shall cooperate fully and on a continuing basis with ORI during its oversight reviews of this institution and its research misconduct proceedings and during the process under which the respondent may contest CR1 findings of research misconduct and proposed HAS administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all witnesses, research records, and other evidence under our control or custody, or in the possession of, or accessible to, all persons that are subject to our authority

1000.05 Reporting to ORI

When required by regulation, the ORSP Director will report to ORI any proposed settlements, admissions of research misconduct, or institutional findings of misconduct that arise at any stage of a misconduct proceeding, including the allegation and inquiry stages.

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