



THE UNIVERSITY of
NEW ORLEANS

**ADMINISTERED BY: Executive Director for
Research and Economic Development**

Policy No: AP-RE-09.1
TITLE: Scientific Misconduct
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PURPOSE

This policy addresses research misconduct on proposals, awards, or other research related matters.

AUTHORITY

The University of New Orleans follows the Office of Research Integrity (ORI) policies, procedures and practices for responding to misconduct allegations. This policy follows 42 CFR 93.304 Institutional Policies and Procedures.

GENERAL POLICY

Scientific Misconduct is the fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.

Participation in scientific research acknowledges the responsibility of the researcher to implement systematic, careful, honest procedures, which will contribute valid findings to the body of knowledge being developed within a particular field, be it to support earlier findings, to extend them or to refute them. To the extent that society depends on the outcomes of research to understand principals of phenomena and to develop inventions from the principles, researchers have a responsibility to uphold the highest standards of scientific conduct. When such conduct is not followed and violations of such expectations are observed, it is incumbent upon the institution to have in place and to implement procedures, which will protect those who observe and report such violations. Such procedures when they are made known to the research community within the institution will themselves act as a deterrent to scientific misconduct. When accusations of misconduct are made, it is crucial that the institution have in place procedures, which will provide a fair, systematic process for reviewing the charges and determining their merit. Additionally, it is incumbent upon the institution to provide the research community of the institution regular information that will help prevent misconduct from occurring.

SCOPE

This policy and the associated procedures apply to all individuals at the University of New Orleans (UNO) engaged in research. *This group includes but is not limited to individuals engaged in research that is supported by or for which support is requested from the United States Public Health Service (PHS).* The PHS regulation at 42 CFR Part 93, applies to any biomedical or behavioral research, research training or activities related to that research or training. This policy applies to any person paid by, under the control of, or affiliated with the institution, such as scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at UNO.

The policy and associated procedures will normally be followed when an allegation of possible misconduct in science is received by an institutional official. Particular circumstances in an individual case may dictate variation from the normal procedure deemed in the best interests of UNO and/or the sponsoring agency. Any change from normal procedures also must ensure fair treatment to the subject of the inquiry or investigation. Any significant variation must be approved in advance by the President.

DEFINITIONS

Allegation

Allegation means any written, oral statement, or other indication of possible scientific misconduct made to an institutional official.

Conflict of Interest

A conflict of interest is a real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.

Deciding Official

The institutional official who makes final determinations on allegations of scientific misconduct and any responsive institutional actions. (The Deciding Official at UNO is the President, or the President's appointee. However, the Research Integrity Officer may not serve as the President's appointed Deciding Official.).

Good Faith Allegation

A good faith allegation is an allegation made with the honest belief that scientific misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

Inquiry

This is information gathering and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation.

Investigation

An investigation is the formal examination and evaluation of all relevant facts to determine if misconduct has occurred and, if so, to determine the responsible person and the seriousness of the misconduct.

ORI

The Office of Research Integrity (ORI) is the office within the U.S. Department of Health and Human Services (DHHS) that is responsible for the scientific misconduct and research integrity activities of the U.S. Public Health Service.

PHS

The U.S. Public Health Service (PHS), an operating division of the DHHS.

PHS Regulation

The Public Health Service regulation establishing standards for institutional inquiries and investigations into allegations of scientific misconduct, which is set forth at 42 CFR Part 93 Public Health Service Policies on Research Misconduct.

PHS Support

PHS grants, contracts, or cooperative agreements or applications therefor.

Research Integrity Officer

The institutional official responsible for assessing allegations of scientific misconduct and determining when such allegations warrant inquiries and for overseeing inquiries and investigations.

Research Record

This means any data, document, computer file, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of scientific misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

Respondent

The person against whom an allegation of scientific misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

Retaliation

Any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has in good faith, made an allegation of scientific misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.

Scientific Misconduct

Scientific misconduct or misconduct in science means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.

Whistleblower

A person who makes an allegation of scientific misconduct.

RIGHTS & RESPONSIBILITIES**Research Integrity Officer**

The President will appoint the Research Integrity Officer who will have primary responsibility for implementation of the procedures set forth in this document. The Research Integrity Officer will be an institutional official who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith.

The Research Integrity Officer will appoint the inquiry and investigation committees and ensure that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation. The Research Integrity Officer will attempt to ensure that confidentiality is maintained.

The Research Integrity Officer will assist inquiry and investigation committees and all institutional personnel in complying with these procedures and with applicable standards imposed by government or external funding sources. The Research Integrity Officer is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

The Research Integrity Officer will report to ORI as required by regulation and keep ORI apprised of any developments during the course of the inquiry or investigation as appropriate.

Whistleblower

The whistleblower will have an opportunity to testify before the inquiry and investigation committees, to review those portions of the inquiry and investigation reports pertinent to his/her testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. In addition, if the Research Integrity Officer has determined that the whistleblower may be able to provide pertinent information on any portions of the draft report; these portions may be given to the whistleblower for comment. The whistleblower is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

Deciding Official

The Deciding Official will receive the inquiry and/or investigation report and any written comments made by the respondent or the whistleblower on the draft report. The Deciding Official will consult with the Research Integrity Officer or other appropriate officials and will determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions [see section in this document, *Institutional Administrative Actions*].

GENERAL POLICIES & PRINCIPLES

Responsibility to Report Misconduct

All employees or individuals associated with UNO must report observed, suspected, or apparent misconduct in science directly to the Research Integrity Officer or to another administrator (a vice president, dean or by a chair or director through a dean) who should in return report the accusation to the Research Integrity Officer. If an individual is unsure whether a suspected incident falls within the definition of scientific misconduct, he or she may call the Research Integrity Officer to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of scientific misconduct, the Research Integrity Officer will refer the individual or allegation to other offices or officials with responsibility for resolving the problem as necessary.

At any time, an employee may have confidential discussions and consultations about concerns of possible misconduct with the Research Integrity Officer, the Provost or deans and will be counseled about appropriate procedures for reporting allegations. A charge, which is brought to the attention of a chair or director, must be reported to his/her dean.

Protecting the Whistleblower

The Research Integrity Officer in cooperation with the President will monitor the treatment of individuals who bring, in good faith, allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The Research Integrity Officer and the President will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action.

Employees should immediately report any alleged or apparent retaliation to the Research Integrity Officer.

In addition, the institution will protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the whistleblower requests anonymity, the institution will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The whistleblower will be advised that if the matter is referred to an investigation committee and the whistleblower's testimony is required, anonymity may no longer be guaranteed. Institutions are required to undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

Institutional employees accused of scientific misconduct may consult at their expense with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal adviser to interviews or meetings on the case if necessary. However, the counsel/advisor is limited to an advisory role only.

Cooperation with Inquiries and Investigations

Institutional employees will cooperate with the Research Integrity Officer and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the Research Integrity Officer or other institutional officials on misconduct allegations.

Preliminary Assessment of Allegations

Upon receiving an allegation of scientific misconduct, the Research Integrity Officer will immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry under the university's definition of scientific misconduct, whether PHS support or PHS applications for funding are involved, and whether the allegation falls under the PHS definition of scientific misconduct.

CONDUCTING THE INQUIRY

Initiation and Purpose of the Inquiry

Following the preliminary assessment, if the Research Integrity Officer determines that the allegation provides sufficient information to allow specific follow-up, and falls under the definition of scientific misconduct, he or she will immediately initiate the inquiry process. In initiating the inquiry, the Research Integrity Officer should identify clearly the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the respondent, whistleblower, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation. The purpose of the inquiry is not to reach a conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in a written inquiry report.

Sequestration of the Research Records

After determining that an allegation falls within the definition of misconduct in science and if it involves PHS or other external funding, the Research Integrity Officer must ensure that all original research records and materials relevant to the allegation are immediately secured. The Research Integrity Officer may consult with ORI for advice and assistance in this regard.

Appointment of the Inquiry Committee

The Research Integrity Officer, in consultation with other institutional officials as appropriate, will appoint an inquiry committee and committee chair within 10 working days of the initiation of the inquiry. The committee will normally be a subcommittee selected from the University Research Council, but the Research Integrity Officer may appoint individuals who are not on the University Research Council as her/his discretion. The subcommittee of four members is selected based on members' seniority on the Research Council except where members of the Council less senior may have more expertise in the area of the misconduct charge. A member selected for the committee should recuse herself/himself if she/he was a research collaborator with the respondent or otherwise professionally close in order to avoid any real or apparent conflict of interest. At the first convening of the inquiry committee, a chair will be selected. The Head of Research attends the meetings of the inquiry committee ex officio. If the charge has been brought against a graduate student, the Head of the Graduate School will also attend the meetings ex officio.

The Research Integrity Officer will notify the respondent of the proposed committee membership in 5 working days of the selection of the inquiry committee. If the respondent submits within 5 working days a written objection to any appointed member of the inquiry committee or expert based on bias or conflict of interest, the Research Integrity Officer will determine whether to replace the challenged member or expert with a qualified substitute. The Research Integrity Officer will notify the respondent in writing of the decision about membership within 5 working days of receipt of the written objection.

Charge to the Committee and the First Meeting

The Research Integrity Officer will prepare a charge for the inquiry committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the respondent, whistleblower, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation as required by the PHS regulation. The purpose is not to determine whether scientific misconduct definitely occurred or who was responsible.

At the committee's first meeting, the Research Integrity Officer 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 Research Integrity Officer and institutional counsel, if necessary, will be present or available throughout the inquiry to advise the committee as needed.

Inquiry Process

The inquiry committee will normally interview the whistleblower, respondent, and key witnesses as well as examining relevant research records and materials. Then the inquiry committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the Research Integrity Officer and institutional counsel, if necessary, the committee members will decide whether there is sufficient evidence of possible scientific misconduct to recommend further investigation. The scope of the inquiry does not include deciding whether misconduct occurred or conducting exhaustive interviews and analyses.

THE INQUIRY REPORT

Elements of the Inquiry Report

A written inquiry report must be prepared that states the name and title of the committee members and experts, if any; the allegations; the PHS support (if applicable); a summary of the inquiry process used; a list of the research records and any other evidence reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted or not; and the committee's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. Institutional counsel may review the report for legal sufficiency.

Comments on the Draft Report by the Respondent and the Whistleblower

The Research Integrity Officer will provide the respondent with a copy of the draft inquiry report for comment and rebuttal. The Research Integrity Officer will provide the whistleblower, if he or she is identifiable, with a summary of the inquiry findings for comment.

- **Confidentiality** – The Research Integrity Officer shall establish reasonable conditions for review to protect the confidentiality of the draft report.
- **Receipt of Comments** – Within 10 working days of their receipt of the draft report, the whistleblower and respondent will provide their comments, if any, to the inquiry committee. Any comments that the whistleblower or respondent submits on the draft materials will become part of the final inquiry report and record. Based on the comments, the inquiry committee may revise the report as appropriate. The revision must be shared with the respondent.

Inquiry Decision and Notification

Decision by Deciding Official

- The Research Integrity Officer will transmit the final report and any comments to the Deciding Official, who will make the determination of whether findings from the inquiry provide sufficient evidence of possible scientific misconduct to justify conducting an investigation.
- The inquiry is completed when the Deciding Official makes this determination, which will be made within 10 days of the receipt of the report from the inquiry committee. Any extension of this period will be based on good cause and recorded in the inquiry file.

Notification

- The Research Integrity Officer will notify both the respondent and the whistleblower in writing of the Deciding Official's decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened.
- The Research Integrity Officer will also notify all appropriate institutional officials of the Deciding Official's decision.

Time Limit for Completing the Inquiry Report

The inquiry committee will normally complete the inquiry and submit its report in writing to the Research Integrity Officer no more than 60 calendar days following its first meeting, unless the Research Integrity Officer approves an extension for good cause. If the Research Integrity Officer approves an extension, the reason for the extension will be entered into the records of the case and the report. The respondent also will be notified of the extension.

CONDUCTING THE INVESTIGATION

Purpose of the Investigation

The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or potential harm to human subjects or the public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be set forth in an investigation report.

Sequestration of the Research Records

The Research Integrity Officer will immediately sequester any additional pertinent research records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the respondent is notified that an investigation has begun. The need for additional sequestration of records 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. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

Appointment of the Investigation Committee

If the respondent is a faculty member the President will oversee the creation of a normal faculty hearings committee within 10 working days of the notification to the respondent that an investigation is planned or as soon thereafter as practicable. The only deviation will be that the standing committee will be asked to consider the disciplinary expertise of the hearings committee selected by the normal process. If other members of the hearings committee pool might have more expertise relevant to the charge, the selection process should result in their inclusion. Members selected for the committee must recuse themselves if they are/or were a research collaborator with the respondent or otherwise professionally close to him/her. To supplement the standing hearings committee pool with necessary expertise, consultants can be asked to give expert information to the committee during the investigation.

If the respondent is a graduate student, the student misconduct procedures will be followed. Again, the standing hearings committee will be asked to consider the complimentary expertise of the members chosen for the hearings.

The Research Integrity Officer will notify the respondent of the proposed committee membership within 5 working days of the selection of the investigations committee. If the respondent submits within 5 working days a written objection to any appointed member of the investigation committee or expert based on bias or conflict of interest, the President will determine whether to replace the challenged member or expert with a qualified substitute and will notify the respondent within 5 working days of receipt of the written objection.

Charge to the Committee and the First Meeting*Charge to the Committee*

The Research Integrity Officer will define the subject matter of the investigation in a written charge to the committee that describes the allegations, related issues identified during the inquiry, defines scientific misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, whistleblower, and key witnesses to determine whether, based on a preponderance of the evidence, scientific misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the Research Integrity Officer, who will notify the respondent of the new subject matter or to provide notice to additional respondents.

The First Meeting

The Research Integrity Officer, with the assistance of institutional counsel, if necessary, will convene the first meeting of the investigation committee to review the charge, the 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 investigation committee will be provided with a copy of these instructions and, where PHS or other funding is involved, the appropriate regulation.

Investigation Process

The investigation committee will be appointed and the process initiated within 30 days of the completion of the inquiry, if findings from that inquiry provide a sufficient basis for conducting an investigation.

The investigation will normally involve examination of all documentation including, but not necessarily limited to, relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Whenever possible, the committee should interview the whistleblower(s), the respondent(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the respondent may be tape-recorded. Written summaries of the tape-recorded interviews will be prepared, their portion provided to the interviewed party for comment or revision, and included as part of the investigatory file.

THE INVESTIGATION REPORT

Elements of the Investigation Report

The final report submitted to ORI must describe the policies and procedures under which the investigation was conducted, describe how and from whom information relevant to the investigation was obtained, state the findings, and explain the basis for the findings. The report will include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct as well as a description of any sanctions imposed and administrative actions taken by the institution.

Comments on the Draft Report

1. Respondent

The Research Integrity Officer will provide the respondent with a copy of the draft investigation report for comment and rebuttal. The respondent will be allowed 10 working days to review and comment on the draft report. The respondent's comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all the other evidence.

2. Whistleblower

The Research Integrity Officer will provide the whistleblower, if he or she is identifiable, with only those portions of the draft investigation report that address the whistleblower's role and opinions/testimony in the investigation. The report should be modified, as appropriate, based on the whistleblower's comments.

3. Institutional Counsel

The draft investigation report will be transmitted to the institutional counsel for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

4. Confidentiality

In distributing the draft report, or portions thereof, to the respondent and whistleblower, the Research Integrity Officer will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. To assure confidentiality, the Research Integrity Officer may, for example, request the recipient to sign a confidentiality statement or to come to his or her office to review the report.

Institutional Review and Decision

Based on a preponderance of the evidence, the Deciding Official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. If this determination varies from that of the investigation committee, the Deciding Official will explain in detail the basis for rendering a decision different from that of the investigation committee in the institution's letter transmitting the report to ORI or other appropriate party. The Deciding Official's explanation should be consistent with the PHS or other funder's definition of scientific misconduct, the institution's policies and procedures, and the evidence reviewed and analyzed by the investigation committee. The Deciding Official may also return the report to the investigation committee with a request for further fact-finding or analysis. The Deciding Official's determination, together with the investigation committee's report, constitutes the final investigation report.

When a final decision on the case has been reached, the Deciding official will notify both the respondent and the whistleblower in writing. In addition, the Deciding Official will determine whether 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 Research Integrity Officer is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

Transmittal of the Final Investigation Report to ORI

After comments have been received and the necessary changes have been made to the draft report, the investigation committee should transmit the final report with attachments, including the respondent's and whistleblower's comments, to the Deciding Official, through the Research Integrity Officer.

Time Limit for Completing the Investigation Report

Ordinarily, an investigation is to be completed within 120 calendar days of its initiations with the initiation being defined as the first meeting of the investigation committee. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the Deciding Official for approval, and submitting the report to applicable outside agencies such as ORI.

REQUIREMENTS FOR REPORTING TO ORI

1. The institution's decision to initiate an investigation must be reported by the Research Integrity Officer in writing to the Director, ORI, on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the PHS definition of scientific misconduct, and the PHS applications or grant number(s) involved. ORI must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report. Any significant variations from the provisions of the institutional policies and procedures should be explained in any reports submitted to ORI.
2. The institution will promptly advise ORI of any developments during the course of the investigation, which disclose facts that may affect current or potential DHHS funding for individual(s) under investigation or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest. The institution will promptly advise ORI of any developments during the course of the investigation, which disclose facts that may affect current or potential DHHS funding for individual(s) under investigation or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest.
3. If the institution plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the PHS regulation, the Research Integrity Officer will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.
4. If the institution determines that it will not be able to complete the investigation in 120 days, the Research Integrity Officer will submit to ORI a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the Research Integrity Officer will file periodic progress reports as requested by the ORI.
5. When PHS or DHHS funding or applications for funding are involved and an admission of scientific misconduct is made, the Research Integrity Officer will contact ORI for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves PHS funds, the institution cannot accept an admission of scientific misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI.
6. The Research Integrity Officer will notify ORI at any stage of the inquiry or investigation if there are special circumstance as outlined in 42 CFR 93.318:
 - a. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
 - b. HHS resources or interests are threatened.
 - c. Research activities should be suspended.
 - d. There is reasonable indication of possible violations of civil or criminal law.
 - e. Federal action is required to protect the interests of those involved in the research misconduct proceeding.
 - f. The research institution 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.
 - g. The research community or public should be informed.

INSTITUTIONAL ADMINISTRATIVE ACTIONS

In accordance with the Faculty Handbook, the University of New Orleans will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated. Because this investigation has been conducted by the Faculty Hearings Committee or the Judicial Committee in the case of a graduate student, these actions fulfill the university's responsibilities under the Faculty Handbook for imposition of a severe sanction, if applicable, and similarly under the Student Misconduct Policy.

If the Deciding Official determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the Research Integrity Officer. The actions may include:

- Withdrawal or correction of all pending or published abstracts and papers emanating from the research where scientific misconduct was found
- Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment.
- Restitution of funds as appropriate

OTHER CONSIDERATIONS

Termination of Institutional Employment or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible scientific misconduct has been reported, will not preclude or terminate the misconduct procedures.

If the respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

The Respondent's Reputation

If the institution finds no misconduct and ORI (other appropriate external entity) concurs, after consulting with the respondent, the Research Integrity Officer will undertake reasonable efforts to clear the respondent's reputation. Depending on the particular circumstances, the Research Integrity Officer should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forums in which the allegation of scientific

misconduct was previously made known, and expunging all reference to the scientific misconduct allegation from the respondent's personnel file. Any institutional actions to restore the respondent's reputation must first be approved by the Deciding Official.

Protection of the Whistleblower and Others

Regardless of whether the institution or ORI (or other appropriate agency) determines that scientific misconduct occurred, the Research Integrity Officer will undertake reasonable efforts to protect whistleblowers who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the Deciding Official will determine, after consulting with the whistleblower, what steps, if any, are needed to restore the position or reputation of the whistleblower. The Research Integrity Officer is responsible for implementing any steps the Deciding Official approves. The Research Integrity Officer will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the whistleblower.

Allegations Not Made in Good Faith

If relevant, the Deciding Official will determine whether the whistleblower's allegations of scientific misconduct were made in good faith. If an allegation was not made in good faith, the Deciding Official will determine whether any administrative action should be taken against the whistleblower.

Interim Administrative Actions

Institutional officials will take interim administrative actions, as appropriate, to protect Federal funds and ensure that the purposes of the Federal financial assistance are carried out.

RECORD RETENTION

After completion of a case and all ensuing related actions, the Research Integrity Officer will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the Research Integrity Officer or committees. The Research Integrity Officer will keep the file for seven years after completion of the case to permit later assessment of the case and to substantiate the investigation's findings according to 42 CFR 93.317. ORI or other appropriate agencies will be given access to the records upon written request.

ORI REFERENCE INFORMATION

Notice of Information about Scope of Misconduct in Institutional Proceedings

The Office of Research Integrity (ORI) of the U.S. Department of Health and Human Services acknowledges that an important issue in the course of institutional investigations into allegations of research misconduct is the determination of the scope. The scope of research misconduct refers to an

institution diligently pursuing all significant leads discovered to be relevant to an investigation. (42 CFR § 93.310(h)).

An institution that does not adequately address the scope of the potential research misconduct in accordance with § 93.310(h) and perform timely sequestration of research records (§ 93.307(b) and § 93.310(d)) may compromise the effective handling of the investigational process and may allow undetected research misconduct to remain in the literature or to be used in applications for U.S. Public Health Service (PHS) funds.

Case Examples for Institutions

To assist institutions with determining whether a significant issue or lead may be relevant while conducting a research misconduct proceeding, ORI has constructed several hypothetical case examples and included them in an informational document (available at: <https://ori.hhs.gov/handling-misconduct>). ORI has provided these case examples as representative scenarios that institutions may encounter to illustrate how the scope of research misconduct may be determined.

ORI recognizes that these hypothetical case examples do not address all of the particular challenges or concerns that institutions may face when determining which leads or significant issues to pursue in their research misconduct proceedings. The Division of Investigative Oversight (DIO) can provide assistance concerning the scope of the research misconduct or the handling of cases. The DIO Director or DIO Scientist-Investigators can be contacted at (240) 453-8800 or by writing to AskORI@hhs.gov.

ADDITIONAL RESOURCES

- See UNO Scientific Misconduct website located <https://www.uno.edu/research/funding/policies/misconduct>
- Office of Research Integrity website located <https://ori.hhs.gov/>



John W. Nicklow
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