

III.B-C. POLICY FOR REVIEWING ALLEGED RESEARCH MISCONDUCT

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The University relies on all members of its community to establish and maintain the highest standards of ethical practice in academic work including research. Misconduct in research is forbidden and represents a serious breach of both the rules of the University and the customs of scholarly communities.

The University is committed to fostering an environment conducive to the responsible conduct of research. Although instances of research misconduct are relatively rare, the University has a responsibility to evaluate allegations of misconduct and to resolve such matters in accordance with this policy.

The primary responsibility for maintaining integrity in research must rest with those who perform it. In light of this responsibility, the University expects each member of the community:

- To maintain and further the highest standards of ethical practice in research. Especially important are integrity in recording and reporting results, care in execution of research procedures, and fairness in recognition of other's work.
- To be responsible for the integrity of the research carried out under their supervision.
- To understand that authorship implies acceptance of responsibility for the methods and findings of the work.
- To keep and preserve thorough and verifiable records of research.
- To report suspected research misconduct.

This policy is applicable to research conducted under the auspices of the University of Pennsylvania and to all members of the University community including faculty and, subject to Section 6.11, students and staff. Unless the sponsor requires a longer period of review, in the absence of exceptional circumstances, this policy is limited to alleged misconduct that occurred within six years of the date the University received an allegation.

Definitions

As used in this policy, the following terms shall have the meaning ascribed to them below:

Allegation means a disclosure of possible research misconduct brought directly to the attention of the appropriate School or University official as described in Section 1.

Complainant means an individual who makes an allegation of research misconduct.

Good faith as applied to a complainant or witness means having a reasonable belief in the truth of one's allegation or testimony, based on the information known to the complainant or witness at the time.

An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowledge of or reckless disregard for information that would negate the allegation or testimony.

Inquiry means preliminary information-gathering and preliminary fact-finding that meets the criteria and follows the procedures of Section 2.

Investigation means the formal development of a factual record and the examination of that record that meets the criteria and follows the procedures of Section 3.

Preponderance of the evidence means proof by evidence that, compared with evidence opposing it, leads to the conclusion that the fact at issue is more likely true than not.

Research means a systematic study directed toward fuller knowledge or understanding of the subject studied.

Research Integrity Officer or **RIO** refers to the institutional official responsible for administering the institution's written policies and procedures for addressing allegations of research misconduct in compliance with this policy and applicable regulations, or such official's designee.

Research misconduct means fabrication, falsification, or plagiarism or other serious deviation from accepted practices in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.

- Fabrication is making up data or results and recording or reporting them.
- Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
- Plagiarism means the appropriation of another person's ideas, processes, results, or words, without giving appropriate credit.
- Plagiarism includes the unattributed verbatim or nearly verbatim copying of sentences and paragraphs from another's work that materially misleads the reader regarding the contributions of the author. It does not include the limited use of identical or nearly identical phrases that describe a commonly used methodology.
- Plagiarism does not include self-plagiarism or authorship or credit disputes, including disputes among former collaborators who participated jointly in the development or conduct of a research project.
- Serious deviation from accepted practices refers to actions that materially compromise the integrity of the research record. This includes but is not limited to stealing, destroying, or damaging the research property of others with the intent to alter the research record; reckless disregard for accuracy of the work of research staff or maintenance of appropriate research records; and directing or encouraging others to engage in fabrication, falsification or plagiarism. As defined here, it is limited to activity related to the proposing, performing, or reviewing of research, or in the reporting of research results and does not include misconduct that occurs in the research setting but that does not affect the integrity of the research record, such as authorship or credit disputes, self-plagiarism, misallocation of funds, sexual harassment, and discrimination, which are covered by other University policies.

Research record means the record of data or results that embody the facts resulting from research. Data or results may be in physical or electronic form. Examples of items, materials, or information that may

be considered part of the research record include, but are not limited to, research proposals, raw data, processed data, clinical research records, laboratory records, study records, laboratory notebooks, progress reports, manuscripts, abstracts, theses, records of oral presentations, online content, lab meeting reports, and journal articles.

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

Retaliation means an adverse action taken against a complainant, witness, or committee member by the University or one of its members in response to:

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

Findings of Research Misconduct

A finding of research misconduct as defined under this policy requires that:

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

Procedures for Handling Alleged Research Misconduct

The following procedures recognize the need to protect the rights and reputations of all individuals, including those who are alleged to have engaged in misconduct but against whom no finding has been made and those who report the alleged misconduct. These procedures also recognize that ethical standards are not only an individual obligation but represent a responsibility to the institution, to scientific communities, and to the public.

All committees and persons involved in an inquiry or investigation have the obligation to maintain confidentiality throughout the proceedings except as otherwise set forth in this policy. All persons concerned have the obligation to cooperate and furnish all requested information at any time during the proceedings. If any individual refuses to do so, the committees of inquiry and investigation will note this in their reports.

The making of knowingly false or reckless accusations regarding research misconduct violates acceptable norms of behavior for members of the University community and may result in, among other things, formal charges being brought under applicable University procedures, against the person making such accusations.

1. Assessment

1.1 Before filing a complaint alleging research misconduct, an individual is encouraged to seek advice from trusted individuals, such as a department chair, Dean or University Ombuds, and through such consultation to determine whether the matter should be pursued. Complaints should be submitted to the University Research Integrity Officer who shall acknowledge receipt of the complaint. The Research Integrity Officer, along with the responsible administrative entity, will determine potential applicability of this policy, jurisdiction, and forward a complaint that may fall within the policy to the Dean of the School with primary oversight of the respondent. The complainant can be any

individual, whether or not affiliated with the University. To the extent possible, the complaint should be detailed, specific, and accompanied by appropriate documentation.

1.2 Upon receipt of the complaint from the Research Integrity Officer, the Dean will promptly assess the matter to determine whether it falls within the definition of research misconduct as described herein and is sufficiently credible and specific so that potential evidence of research misconduct may be identified. If so, the matter will be referred to inquiry. The assessment only involves the review of readily accessible information relevant to the allegation. If the person who conducted the questioned work is not apparent in the complaint, the assessment phase may also be used to determine who performed the work that is the subject of the allegation so that the respondent(s) can be appropriately named if proceeding to inquiry is appropriate.

2. Inquiry

2.1 Upon completion of an assessment necessitating inquiry, the Dean will notify the respondent and, at the discretion of the Dean, the complainant. The Dean shall outline to the respondent and if applicable to the complainant, their rights and obligations by reference to this and other relevant University policies and procedures. The Dean will take steps to secure all documents, data and other materials that appear to be relevant to the allegations. The respondent is obligated to cooperate fully in all such efforts. Reasonable efforts will be made to minimize disruption to the respondent's research during this and subsequent phases of the inquiry, subject to Sections 6.4, 6.5, or 6.7. Where possible the respondent will be provided copies or reasonable supervised access to the materials.

2.2 Promptly after notification to the respondent the Dean will appoint an inquiry committee. The committee shall consist of at least two individuals, none of whom will be a member of the same department as, or a recent collaborator of, the respondent or complainant, or will have unresolved personal, professional, or financial conflicts of interest relevant to the proceedings. From the appointed committee members the Dean shall appoint a Chair who is a member of the standing faculty with the rank of Professor. The members of the committee should be unbiased and have backgrounds appropriate to consider the issues being raised. Upon appointment of the inquiry committee, the Dean will notify the respondent and at the discretion of the Dean, the complainant, of the names of the committee members.

The appointment of the inquiry committee will generally be completed within 15 calendar days of completing the assessment. The inquiry is initiated once the committee is charged.

2.3 The committee will perform an inquiry to determine whether the allegation warrants a formal investigation. An investigation is warranted if the committee finds there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and the allegation may have substance. The committee will then submit a written report of its findings to the Dean with a copy to the Provost and the respondent. The complainant may be provided the report or portions thereof at the discretion of the Dean. The report should state what evidence was reviewed, summarize relevant interviews and include the committee's recommendation, which will be decided by simple majority of the committee; any dissenting opinion will be noted. This report will generally be submitted within 45 calendar days of the initiation of the inquiry. The respondent may review and provide comments on the report of the inquiry committee. Any comments must be received within 15 calendar days following the sending of the report to the respondent. Such reply will be incorporated by the Dean as an appendix to the report. The

entire inquiry process should be completed within 90 calendar days of the initiation of the inquiry unless circumstances clearly warrant a delay as determined by the Dean in consultation with the Provost. In such cases the record of inquiry will detail reasons for the delay.

2.4 If the majority of the inquiry committee finds that a formal investigation is warranted the Dean shall initiate an investigation in accordance with section 3. If a majority of the inquiry committee finds that a formal investigation is not warranted, the Dean [in consultation with the Provost] may (i) drop the matter, (ii) not initiate an investigation, but take such other action as the circumstances warrant, or (iii), nonetheless initiate an investigation. In the event the committee is unable to reach a majority opinion, the Dean will move forward to investigation. The decision should be completed within 10 calendar days following the respondent's response, if any, or the close of the review and comment period described above. The Dean will inform the appropriate parties of the decision. Where such notification is appropriate, the Provost will inform the applicable government agency or source funding the research, in writing, of the determination that an investigation is warranted and will identify the respondent to the agency or source.

3. Investigation

3.1 Promptly after the determination to conduct an investigation, the Dean will appoint an investigation committee. The committee shall consist of at least three individuals and at the Dean's discretion such additional number of members, if any, as may be suitable to competently conduct the investigation. At least one member of the investigation committee will not have served as a member of the inquiry committee. None of the committee members will be a member of the same department as, or a recent collaborator of, the respondent or complainant, or will have unresolved personal, professional, or financial conflicts of interest relevant to the proceedings. Committee members shall have backgrounds appropriate to evaluate the issues being raised. A majority of the members of the investigation committee shall be members of the standing faculty. From the appointed committee members the Dean shall appoint a Chair who is a member of the standing faculty with the rank of Professor. The Chair of the investigation committee may also have served as Chair of the inquiry committee.

Generally within 30 calendar days after the determination that an investigation is warranted, the Dean will initiate an investigation by charging the committee.

The investigation will be divided into five phases:

- (i) investigation and development of an initial factual record,
- (ii) draft report of the findings,
- (iii) comment period,
- (iv) final report of the findings, and
- (v) final statement/appeal by respondent.

The Office of the General Counsel and the Research Integrity Officer shall provide guidance in procedures appropriate to the case and may have a representative present at meetings of the committee. The representative will not participate directly in the proceedings except when and as requested to do so by the committee.

3.2 *Investigation and development of an initial factual record.* The investigation committee will be provided with copies of the complaint, the report of the inquiry committee and any other materials acquired by

the inquiry committee during the course of its inquiry. The investigation committee will undertake a thorough examination of the allegations, including, without limitation, a review of all relevant research data and proposals, publications, correspondence, and records of communication in any form. Experts within or outside the University may be consulted. The investigation committee will also investigate any possible acts of research misconduct by the respondent that come to light during its investigation and will include them in its findings. Whenever possible, interviews will be conducted with the complainant and respondent, as well as with others reasonably expected to have material information regarding the allegations. Recordings will be made of all interviews and saved for reference. Either summaries or transcripts as determined by the committee will be provided to the interviewed party for comment or revision and included in the investigation file. The respondent and the complainant will not appear before the committee at the same time. When appearing before the committee the respondent and the complainant may each be accompanied by an adviser, who may be a lawyer but who may not participate directly in the proceedings except when and as requested to do so by the committee.

The respondent will be notified by the committee when the investigation is near completion (and after the respondent has been interviewed) and offered an opportunity to present additional information that is material to the investigation. The committee has the authority to set reasonable page limits and will provide a time limit for submission of additional information.

3.3 *Draft report of the findings.* Following development of the initial factual record, the investigation committee will prepare and provide a written draft report of its proposed findings to the respondent, to the Research Integrity Officer, and the Office of General Counsel. The complainant may be provided the report or portions thereof if authorized by the Dean. The report will describe the allegations investigated, how and from whom information was obtained, the proposed findings and their basis, and will include texts or summaries of the interviews conducted by the committee.

3.4 *Comment Period.* The respondent, and the complainant if they have been provided the draft report, may render comments on the draft report to be included in the record. Comments must be provided to the committee in writing within 30 calendar days following receipt of the draft report. The committee will consider any such comments prior to finalizing their report.

3.5 *Final report of the findings.* The committee will submit a written final report to the Dean with copies to the Provost, the Research Integrity Officer, Office of General Counsel, and the respondent. The complainant may be provided the report or portions thereof at the discretion of the Dean. This report should describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained, the allegations investigated, the findings and the basis of the findings, and should include summaries or transcripts of interviews as determined by the committee or as required by applicable funding agency. The committee will state that it finds the charge(s) made by the complainant or otherwise emerging during the course of its proceedings to be unsubstantiated or substantiated by a preponderance of evidence[1] (https://next.catalog.upenn.edu/faculty-handbook/iii/iii-b-c/#_ftn1). For each charge considered, the vote of a majority of the committee will constitute the decision of the committee. The vote will be recorded. If the vote is not unanimous, a statement of any dissenting opinion will be included in the report. If the committee finds that a violation of University policy in addition to or other than research misconduct might have been committed, a description of the possible

violation will be included for consideration by the Dean under other procedures. The final report will preferably be submitted within 120 calendar days of the initiation of the investigation.

3.6 Final statement/appeal by the respondent. Within 15 calendar days after receipt of the final report, the respondent will be permitted to make a written appeal of the findings to the Dean with a copy to the Provost. Such appeal shall include respondent's objections, if any, to the findings and specify any alleged violations of procedures provided in this policy. The statement of appeal must be succinct and describe the basis for the objections, if any, being made. The statement will be incorporated as an appendix to the report but will not be considered by the committee unless the Dean requests that they do so.

[1] (https://next.catalog.upenn.edu/faculty-handbook/iii/iii-b-c/#_ftnref1) At the discretion of the Dean when considering sanctions or other applicable disciplinary procedures, the Dean may request the committee make an additional determination as to whether research misconduct occurred based on a clear and convincing standard.

4. Adjudication

4.1 The Dean will consider the final report and appeal, if any. The final report is final and will be accepted by the Dean unless the Dean in consultation with the Provost determines that there has been (i) procedural error that is likely to have affected the committee's findings, or (ii) that any material finding is unsupported by a preponderance of evidence. If the Dean finds that a defect described in clause (i) or (ii) above has occurred, the Dean may remand the matter to the committee for further proceedings or take other action to address the defect. A revised report, if any, delivered by the committee will be accepted unless deficient under the same standard stated above. Upon acceptance of the report by the Dean, the Provost will report the outcome of the investigation to the appropriate government agency or source funding the research. The Provost will also provide a copy of the report and other required materials to the appropriate government agency or source funding the research, as required. The entire investigation process should be completed within 180 calendar days of its initiation, unless circumstances clearly warrant a delay as determined by the Dean in consultation with the Provost. In such cases the reasons for a delay will be documented.

4.2 If the final report of the investigation committee finds the charges to be unsubstantiated, the case will be closed and the appropriate parties will be informed.

4.3 If the report of the investigation committee finds the charges against a respondent to be substantiated, the Dean in consultation with the Provost will take appropriate action under applicable University corrective action, sanction, or disciplinary policies or procedures. In any subsequent proceeding the final report of the investigation will form part of the record.

4.4 Sponsors may have standards of conduct different from the standards for research misconduct described in this policy. Findings or actions taken under this policy are independent from any determinations or actions taken by the Sponsor.

5. Safeguards

5.1 Confidentiality. During the conduct of the proceedings, where feasible and appropriate the Dean will take reasonable precautions to enforce the confidentiality obligations as set forth above and protect the identities of complainant, respondent, witnesses, and committee members with respect to the larger community. Nonetheless, disclosure by the Dean or

Provost, in their discretion based on the circumstances, is permissible to those who need to know, e.g. institutional review boards, department chairs or division chiefs, journals, editors, publishers, co-authors, and collaborating institutions.

5.2 Protection from Retaliation. The Dean and the Provost have the responsibility to protect the position and reputation of the complainant, committee members, witnesses, or all others providing information related to the proceedings and to protect these individuals from retaliation, so long as they have acted in good faith. In order to protect from retaliation, identities of the complainant and witnesses may be withheld from the respondent where appropriate, provided such withholding does not materially prejudice the ability of the respondent to defend against the allegations.

5.3 Timely request for a procedural correction. As set forth in sections 2.3, 3.4, and 3.6, the respondent shall have an opportunity to submit written responses to the inquiry report, the draft investigation report, and the final investigation report. If the respondent feels that any action of the Dean, inquiry committee, or investigation committee violates procedures set forth in this document and requires immediate correction prior to such opportunity to reply to a report, the respondent may, during the course of the proceeding, submit a timely written request for immediate correction to the party whose action is being questioned i.e. the Dean, inquiry committee, or investigation committee, stating the nature of the action and the reasons why the action violates the procedures set forth in this policy. This request must be made promptly after the respondent becomes aware of the concern, and the request must be succinct and include only information reasonably related to the specific objection being raised. The request must not be repetitive of previously raised concerns. The proceedings will not be delayed during the course of consideration of the objection(s). The decision of the Dean or respective committee with regard to the complaint and responsive corrective action, if any, shall be reflected in the record. If the respondent is dissatisfied with the decision, the respondent may reiterate the concern in the written response to the applicable committee's report as set forth in section 2.3, 3.4, and 3.6.

5.4 Acceptable Working Environment. The Dean in consultation with the Provost may, during the course of the inquiry and investigation, take action including notification to individuals, programs, or institutions, as appropriate to ensure an acceptable working environment for individuals under the direction of, or working with, the respondent.

5.5 Conflict of Interest of the Dean. If the Dean is the complainant or respondent or in any other way has an unresolved personal, professional, or financial conflict of interest relevant to the proceedings, the Dean is obligated to remove themselves from the case during the inquiry and investigation and to transfer to the Provost responsibility for carrying out these procedures. In carrying out the latter the Provost will assume the role specified for the Dean, and the President or President's designee the role specified for the Provost in this policy.

5.6 Restoring Position and Reputation. As necessary the Dean and the Provost will take diligent efforts to restore the position and reputation of respondents against whom no finding of research misconduct is made, and the position and reputation of complainant, committee members, witnesses, or all others providing information related to the proceedings if they acted in good faith. Where the facts suggest that the allegation was knowingly false or made recklessly, the Dean and Provost may refer the matter for consideration under other appropriate University processes.

6. Other Actions and Procedures

6.1 *Delegation of authority.* The Dean may designate an Associate or Vice Dean to represent them in all or part of the administration of any case of misconduct. The Provost may similarly designate a Vice Provost to represent them.

6.2 *Additional respondent(s).* If an additional respondent is identified during an inquiry or investigation, the University is not required to conduct separate proceedings provided that each additional respondent is notified of the allegations and has an opportunity to respond.

6.3 *Subsequent review.* Any final action taken by the Dean under Section 4.3, may be reviewed under other established University grievance and appeal procedures to the extent such review is within the stated jurisdiction of such procedures. All other actions taken, proceedings conducted, and reports prepared under this policy are not subject to review or consideration under the Faculty Grievance Procedure or other appeal procedures.

6.4 *Animal and Human Subject Protection.* The Dean in consultation with the Provost will, during the course of the inquiry or investigation, take administrative action as appropriate to protect the welfare of animal or human subjects.

6.5 *Fund Stewardship.* The Dean and Provost will, during the course of the inquiry and investigation, take administrative action for appropriate stewardship of external financial support.

6.6 *Notification to Federal Agency(ies).* The Dean and Provost will as required or appropriate notify relevant agency(ies) if public health or safety is at risk; if agency resources or interests are threatened; if research activities should be suspended; if there is reasonable indication of possible violations of civil or criminal law; if federal action is required to protect the interests of those involved in the investigation; if the University believes the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved; or if the research community or public should be informed.

6.7 *Compliance with Federal Regulation.* The National Science Foundation, the Public Health Service, and other federal agencies have published regulations regarding the investigation of allegations of research misconduct in the context of research supported by those agencies. If applicable, the University will apply additional or different standards and procedures to comply with those statutory and regulatory requirements.

6.8 *Failure to record.* Inadvertent failure to record any interview under Section 3.2 will not be considered a procedural defect requiring correction.

6.9 *Correcting the research record.* The Dean may take appropriate action to correct errors in the research record if they become apparent during the course of the proceedings. If the final report of the investigation committee finds charges have been substantiated, the Dean will take appropriate steps to correct any misrepresentations resulting from the misconduct in question upon acceptance of the report. Collaborators and other affected individuals, organizations, or institutions will be informed at the appropriate time. If misrepresented results have been submitted for publication, already published, or otherwise disseminated into the public domain, appropriate journals and other sponsors will be notified.

6.10 *Record Retention.* Complete records of all relevant documentation on cases treated under the provisions of this policy will be preserved by the appropriate offices including those of the Dean and the Provost

in a manner consistent with University or sponsor requirements. The Research Integrity Officer may be consulted for guidance in determining appropriate retention periods.

6.11 *Additional or Alternative Proceedings.* This policy does not create procedural rights for University staff members subject to performance management under human resources policies over issues of data integrity or for students who are accused of violating the code of academic integrity in course work. In addition, some forms of misconduct, such as failure to adhere to requirements for the protection of human subjects or to ensure the welfare of laboratory animals, are governed by specific federal regulations and are subject to the oversight of established University committees. Such violations may also be covered under this policy or possibly by other University policies when so determined by the responsible committees or institutional officials. Where multiple internal policies may apply, the Dean shall determine which policies shall be invoked and, where the application of several policies may be appropriate, the order in which the respective proceedings shall occur.

6.12 *Independence of Procedures.* The procedures described in this policy are independent of possible civil or criminal claims arising out of the same or other events. The Dean, with the concurrence of the Provost, after consulting with the General Counsel and any applicable sponsoring federal agencies, will determine whether or when the University will proceed under this policy against a respondent who also faces related charges in a civil or criminal proceeding. If the University defers proceedings, it may subsequently proceed under this policy irrespective of the time provisions set forth hereunder.

6.13 *Actions in furtherance of intent of the policy.* Matters not specifically addressed in this policy may be decided by the Dean in their discretion to further effectuate the purposes of this policy.