

# Oklahoma State University Policy and Procedures

<b>COMPLAINTS OF RESEARCH MISCONDUCT</b>	<b>4-0125 RESEARCH March 2020</b>
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## INTRODUCTION AND GENERAL STATEMENT

1.01 As an institution dedicated to excellence in education, research, and outreach, Oklahoma State University (OSU) places a high value on research integrity. All institutional members will report observed, suspected, or apparent research misconduct to the Research Integrity Officer (RIO) appointed by the Provost and Senior Vice President of the University. Reports may be submitted to the RIO at [RIO@okstate.edu](mailto:RIO@okstate.edu) or via the OSU/A&M EthicsPoint system. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

1.02 This policy applies to all graduate students, tenure-track and non-tenure track faculty as outlined in Section 1.5, Appointment for Non-Tenure-Track Faculty, in the *Policy to Govern Appointment, Tenure, Promotions, and Related Matters of the Faculty of Oklahoma State University* in the OSU Faculty Handbook. This policy also applies to all administrative, professional, and classified staff at OSU. In the context of a sponsored program, this policy may apply to undergraduate students. Allegations of research misconduct reported more than six years after the alleged misconduct occurred will not be addressed through this policy unless the RIO determines special circumstances which warrant otherwise.

1.03 OSU policies may not conflict with state and federal laws. The procedures outlined in this policy may be adjusted to comply with current federal regulations, State of Oklahoma laws, and applicable funding agency requirements.

## DEFINITIONS

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

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

be direct prior involvement.

2.03 “Fabrication” means making up data or results and recording or reporting them.

2.04 “Falsification” means manipulating research materials, equipment or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

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

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

2.07 “Plagiarism” means the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.

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

2.09 “Research Misconduct” means fabrication, falsification, plagiarism, or other practices which seriously deviate from those commonly accepted within the scholarly community for proposing, conducting, or reporting research. It does not include honest errors or differences in opinion.

Allegations of misconduct occurring outside the research setting are excluded from this definition, as are allegations of misconduct in the context of research which would not affect the integrity of research. The following exclusions apply to the definition of research misconduct:

- disputes about agreements for collaboration or mentoring
- misallocation of funds
- sexual harassment or illegal discrimination
- academic misconduct which is not Fabrication, Falsification or Plagiarism as defined in this Policy

2.10 “Research Records” means any data or results which embody the facts resulting from scholarly inquiry. A research record includes, but is not limited to, the following:

- 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.

2.11 "Respondent" means the person or persons (faculty, staff or students) who allegedly committed scientific misconduct.

### **PRELIMINARY REVIEW AND INITIAL INQUIRY**

3.01 Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific to allow potential evidence of research misconduct to be identified, and whether the allegation falls within the definition of research misconduct. An inquiry must be conducted if these criteria are met.

3.02 The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the Complainant, Respondent, or other witnesses, or gather information beyond any submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific to allow potential evidence of research misconduct to be identified. The RIO shall, on or before the date on which the Respondent is notified of the allegation, obtain custody of, inventory, and sequester all known research records and evidence needed to conduct the research misconduct proceeding, as provided in Section 3.04.

3.03 If the RIO determines the criteria for an inquiry are met, he or she will immediately initiate the Initial Inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether an investigation is warranted. An Initial Inquiry does not require a full review of all the evidence related to the allegation.

3.04 At the time of or before beginning an Initial Inquiry, the RIO must make a good faith effort to notify the Respondent in writing. If the inquiry subsequently identifies additional Respondents, they must be notified in writing. On or before the date on which the Respondent is notified, or an inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records, and evidence and sequester them in a secure manner. In the event the research records or evidence encompasses research instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.

All persons to whom this policy applies, including those accused of research misconduct, are obligated to cooperate with all proceedings under this policy, as well as any subsequent investigations. Such cooperation shall include providing Research Records and other relevant information to the RIO. While a person accused of research misconduct shall have the duty to furnish Research Records and other relevant information in his or her possession, the accused person shall have no duty to provide oral or written testimony.

3.05 Upon determining the allegations warrant further review, the RIO, in consultation with other institutional officials as appropriate, will appoint an Initial Inquiry Committee as soon as is practical. The Inquiry Committee shall select one of its members to serve as Chair. The Initial Inquiry Committee must consist of three (3) tenured faculty members of the University who hold academic rank at least equal to the Respondent accused of research misconduct. These individuals should not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry, and should include individuals with the appropriate research expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. The purpose of the Initial Inquiry Committee is to determine whether sufficient evidence exists to warrant the convening of a Formal Investigation.

3.06 The RIO will prepare a charge for the Initial Inquiry Committee which:

- sets forth the time for completion of the inquiry;
- describes the allegations and any related issues identified during the allegation assessment;
- states the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent, Complainant, and key witnesses, in order to determine whether an investigation is warranted, but not to determine whether research misconduct definitely occurred or who was responsible;
- states an investigation is warranted if the committee determines:
  - there is a reasonable basis for concluding the allegation falls within the definition of research misconduct, and
  - the allegation may have substance, based on the committee's review during the inquiry.
- informs the Inquiry Committee they are responsible for preparing or directing the preparation of a written report of the inquiry which meets the requirements of this policy.

3.07 At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as need.

3.08 The Initial Inquiry Committee will normally interview the Complainant, the Respondent, and key witnesses, as well as examine relevant research records and materials. The Initial Inquiry Committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether a formal investigation is warranted based on the criteria of this policy. The scope of the Initial Inquiry is not required to

and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct, or conducting exhaustive interviews and analyses. However, if an admission of research misconduct is made by the Respondent, misconduct may be determined at the Initial Inquiry stage.

3.09 The Chair of the Inquiry Committee will prepare a formal written report regarding the findings of the Initial Inquiry.

3.10 The Initial Inquiry report shall contain, at a minimum:

- a recitation of the evidence reviewed;
- the identity of the persons interviewed;
- a summary of the substance of such interviews;
- findings of fact based upon such evidence and interviews; and
- a recommendation to the RIO as to whether sufficient evidence exists to warrant conducting a Formal Investigation into the allegations in question.

3.11 Unless admitted by the Respondent, the recommendation will not address the ultimate determination of whether research misconduct has occurred, but only if the matter should be processed further. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

## **FORMAL INVESTIGATION**

4.01 The Formal Investigation must begin within thirty calendar days after the DO determines an investigation is warranted. The purpose of the Formal Investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The Formal Investigation will also determine whether there are additional instances of possible research misconduct which justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public, or if it affects research which forms the basis for public policy, clinical practice, or public health practice.

4.02 On or before the date on which the investigation begins, the RIO must: (1) notify the Provost, the Vice President for Research, and the appropriate Academic Dean of the DO's decision to begin the Formal Investigation and provide a copy of the Initial Inquiry report; and (2) notify the Respondent in writing of the allegations to be investigated. The RIO must give the Respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the Initial Inquiry or in the initial notice of investigation.

4.03 Prior to notifying Respondent of the allegations, the RIO will take all reasonable and practical steps to obtain custody of and sequester in a secure manner all known research records and evidence needed to conduct the research misconduct proceeding not previously sequestered during the Initial Inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons including the institution's decision to investigate additional

allegations not considered during the Initial Inquiry stage, or the identification of records during the Initial Inquiry process not previously secured. The procedures to be followed for sequestration during the investigation are the same procedures applied during the Initial Inquiry.

4.04 The RIO, in consultation with other institutional officials as appropriate, will appoint a Formal Investigation Committee and the committee chair as soon after the beginning of the investigation as is practical. The Formal Investigation Committee must consist of at least three (3) tenured faculty members of the University holding academic rank at least equal to the Respondent accused of research misconduct. These individuals should not have unresolved personal, professional or financial conflicts of interest with those involved with the investigation, and should include individuals with appropriate research expertise to evaluate the evidence and issues related to the allegation, interview the Respondent and Complainant, and conduct the investigation.

4.05 The RIO will define the subject matter of the investigation in a written charge to the committee which:

- describes the allegations and related issues identified during the inquiry;
- identifies the Respondent;
- informs the committee it must conduct the investigation as prescribed in Section 4.07;
- defines research misconduct;
- informs the committee it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
- informs the committee in order to determine the Respondent committed research misconduct, it must find a preponderance of the evidence establishes:
  - research misconduct, as defined in this policy, occurred (Respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest errors or a difference of opinion);
  - the research misconduct is a significant departure from accepted practices of the relevant research community; and
  - the Respondent committed the research misconduct intentionally, knowingly, or recklessly; and
- informs the committee it must prepare or direct the preparation of a written investigation report meeting the requirements of this policy.

4.06 The RIO will convene the first meeting of the Formal Investigation Committee to review the charge, the initial inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The Formal Investigation Committee will be provided a copy of this statement of policy and procedures. The RIO will be present or available throughout the investigation to advise the committee as needed.

4.07 The Formal Investigation Committee and the RIO must:

- use diligent efforts to ensure the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;
- take reasonable steps to ensure an impartial and unbiased investigation to the maximum

- extent practical;
- interview each Respondent, Complainant, and any other available person who has been reasonably identified as having information regarding relevant aspects of the investigation, including witnesses identified by the Respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
- pursue diligently all significant issues and leads discovered relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

4.08 The Formal Investigation is to be completed within 120 days, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to the DO. However, if the RIO determines the investigation will not be completed within this 120-day period, he/she will submit to the DO a written request for an extension, setting forth the reasons for delay. The RIO will ensure periodic progress reports are filed with the DO if the request for an extension is granted and directs the filing of such reports.

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

## **THE INVESTIGATION REPORT**

5.01 The Formal Investigation Committee and the RIO are responsible for preparing a written draft report of the investigation which:

- describes the nature of the allegation of research misconduct, including the identification of the Respondent;
- describes and documents the federal, state, private, and/or other sponsors of support, including, for example, the numbers of any grants involved, grant applications, contracts, and publications listing the sponsor of support;
- describes the specific allegations of research misconduct considered in the investigation;
- identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must:
  - identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly;
  - summarize the facts and the analysis which supports the conclusion and consider the merits of any reasonable explanation by the Respondent, including any effort by Respondent to establish by a preponderance of the evidence he/she did not engage in research misconduct because of honest error or a difference of opinion;
  - identify the specific sponsored support;
  - identify whether any publications or other materials need correction or retraction;
  - identify the person(s) responsible for the misconduct; and
  - list any current support or known applications or proposals for support the

Respondent has pending.

5.02 The RIO must give the Respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The Respondent will be allowed at least 30 days from the date he/she receives the report to submit comments to the RIO. The Respondent's comments must be included and considered in the final report.

5.03 In distributing the draft report, or portions thereof, to the Respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available, and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require the recipient sign a confidentiality agreement.

5.04 The RIO will assist the Formal Investigation Committee in finalizing the draft investigation report, including ensuring the Respondent's comments are included and considered, and transmit the final investigation report to the DO. The DO will determine in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct to be recommended to the Provost. If this determination varies from the findings of the Formal Investigation Committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the Formal Investigation Committee. Alternatively, the DO may return the report to the Formal Investigation Committee with a request for further fact-finding or analysis.

5.05 When a final decision on the case has been reached, the RIO will normally notify both the Respondent and the Complainant in writing. After informing the appropriate officials, the DO will determine whether funding sources, law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the Respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

## **APPEALS**

6.01 If the sanctions involve the recommendation for termination of employment, the applicable academic termination procedures will be initiated. The faculty Respondent shall be notified in writing of the sanctions from the Provost or Dean and of the right of the faculty Respondent to appeal the imposition of sanctions as set forth in the "Policy Statement to Govern Appointments, Tenure, Promotions, and Related Matters of the Faculty of Oklahoma State University."

6.02 If the Respondent is a member of the administrative/professional or classified staff of the University, then the staff Respondent shall be notified in writing of the sanctions from the applicable Dean or Vice President and of the right of the staff Respondent to appeal the imposition of sanctions as set forth in the University Policies and Procedures regarding staff grievances.

6.03 If the Respondent is an undergraduate or graduate student, the student Respondent shall be

subject to the Academic Integrity Policies and Procedures. If the Respondent is a graduate student, they could be subject to immediate dismissal from their program. Both undergraduate and graduate students have the right to appeal the imposition of sanctions through an academic integrity hearing, using the process outlined in the Academic Integrity Handbook.

### **NOTICE OF INSTITUTIONAL FINDINGS AND ACTIONS**

7.01 Unless an extension has been granted, the RIO must, at their earliest convenience, submit the following to the DO:

- a copy of the final investigation report with all attachments and any appeal;
- a statement of whether the institution accepts the findings of the investigation report and the outcome of the appeal, if any;
- a statement of whether the institution found misconduct and, if so, who committed the misconduct; and
- a description of any pending or completed administrative actions against the Respondent.

### **MAINTAINING RECORDS FOR REVIEW**

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

### **COMPLETION OF CASES; REPORTING PREMATURE CLOSURES**

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

### **INSTITUTIONAL ADMINISTRATIVE ACTIONS**

10.01 If the DO determines research misconduct is substantiated by the findings, he/she will recommend to the Provost appropriate actions to be taken. Oklahoma State University shall take appropriate administrative actions when an allegation of research misconduct has been substantiated. The administrative actions may include, but are not limited to the following:

- withdrawal or correction of all pending or published abstracts, papers, reports or other materials emanating from the research where research misconduct was found;

- removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, expulsion, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
- restitution of funds to the grantor agency as appropriate; and
- other action appropriate to the research misconduct;
- classified, administrative, and professional staff are subject to corrective action up to and including termination.
- undergraduate and graduate students are subject to sanctions in the Student Code of Conduct.

## **OTHER CONSIDERATIONS**

11.01 The termination of the Respondent's institutional employment or student capacity by resignation, probation, expulsion, or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution's responsibilities.

11.02 If the Respondent, without admitting to the misconduct, elects to resign his/her position or withdraw as a student after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the Respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the Respondent's failure to cooperate and its effect on the evidence.

11.03 Following a final determination of no research misconduct, including Office of Research Integrity (ORI) concurrence where required, the RIO must, at the request of the Respondent, undertake all reasonable and practical efforts to restore the Respondent's reputation. Depending on the particular circumstances and the views of the Respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the Respondent's personnel file, student records, etc. Any institutional actions to restore the Respondent's reputation must first be approved by the DO.

11.04 During the research misconduct proceeding and upon its completion, regardless of whether the institution or ORI determines research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any Complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding (see Board of Regents' Policy 3.06, Non-Retaliation). The DO will determine, after consulting with the RIO and with the Complainant, witnesses, or committee members what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

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

Approved:

Faculty Council, May 1992

President Campbell, May 1992

Board of Regents, May 1992

Board of Regents, April 1993 Valid: July 1, 1992 to June 30, 1993

Board of Regents, March 2015

Faculty Council, August 2019

Council of Deans, September 2019

Associate Deans of Research, January 2020

E-Team, February 2020

Board of Regents, March 2020

Revised:

Updated to Federal Policy, November 2002

Updated to Federal Policy, June 2007

August 2019