

II-314

MISCONDUCT IN SCHOLARLY RESEARCH

POLICY AND PROCEDURES FOR DEALING WITH MISCONDUCT IN SCHOLARLY RESEARCH

I. INTRODUCTION

A. General Policy

The University of Wisconsin-Madison (“University”) has long recognized that honesty is an essential component of scholarly activity. The success of our university and of the Wisconsin Idea itself relies on this honesty to maintain the highest standards of integrity in our research enterprise. The citizens of the State of Wisconsin, our funders and supporters inside and outside the state, our students and alumni, and our entire university community all deserve and expect that misconduct in research be dealt with responsibly and effectively. As a scholarly community, we are committed to addressing allegations or evidence of research misconduct fairly and objectively, in accordance with applicable federal, state, and UW System regulations.

The Unclassified Staff Code of Ethics provides that every member of the university community “at the time of appointment makes a personal commitment to professional honesty and integrity” as an essential component of the university’s “proper function in our society and to ensure continued confidence of the people of this state” (Section UWS 8.01, Wisconsin Administrative Code). The state Student Academic Disciplinary Procedures provide that the “Board of Regents, administrators, faculty, academic staff and students of the University of Wisconsin System believe that academic honesty and integrity are fundamental to the mission of higher education” and that the “university has a responsibility to promote academic honesty and integrity and to develop procedures to deal effectively with instances of academic dishonesty” (Section UWS 14.01, Wisconsin Administrative Code). Failure to adhere to these standards can be cause for discipline or dismissal.

In keeping with those regulations and with the spirit and tradition of this institution, this document outlines our campus’ procedures for assessing and investigating allegations of misconduct in scholarly research. Adherence to this policy, including the possible imposition of sanctions on individuals found to have violated the University’s expectations of integrity in research, guarantees that the University discharge its regulatory obligations and, more importantly, helps to preserve the integrity of our scholarly mission.

B. Procedural Summary

1. An allegation of research misconduct is addressed through a process that aligns with federal requirements (e.g., 42 CFR § 93; 45 CFR§ 689). The Respondent (person who is subject of the allegations, see Section II.B) is provided protections and the opportunity to clarify facts throughout the process. In brief, the major steps include:
 - a. An assessment to determine if the allegation meets the definition of research misconduct, falls within the scope of this policy, and contains sufficient detail to pursue. If not, the process is terminated. The assessment should be completed quickly, preferably within one week;
 - b. An inquiry review by experts who understand standards in the field and are without conflict regarding the issue, to determine if the allegations merit further investigation. If

not, the process is terminated. The inquiry should commence as quickly as practical and must be completed within 60 days thereafter; extensions may be requested;

- c. An investigation by an expert committee that determines if specific acts of research misconduct occurred. This investigation should commence within 30 days of the inquiry decision and must be completed within 120 days thereafter; extensions may be requested;
- d. A decision by Provost or designee to accept the findings of the investigation and determine appropriate institutional actions. This decision should be made within 20 days after receipt of the investigation report; and
- e. The Respondent has an option to appeal a decision that research misconduct occurred. Appeal proceedings should commence within 20 days of the appeal request and then be completed within 120 days; extensions may be requested.

C. Scope

1. This policy applies to anyone who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with the University of Wisconsin – Madison. This includes faculty, staff, employees in training, students, contractors, volunteers and guests.
2. Research misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. The activity must represent a significant departure from accepted practices of the relevant research community.
 - a. Fabrication is making up data or results and recording or reporting them.
 - b. 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.
 - c. Plagiarism is the appropriation of another person's ideas, processes, results, or work without giving appropriate credit.
3. Research misconduct does not include honest error or honest differences in interpretations or judgments of data. The action must be committed intentionally, knowingly, or recklessly.
4. Research misconduct does not encompass authorship or collaboration disputes, nor does this policy supersede or establish an alternative to existing University, state or federal regulations or procedures for handling other transgressions, such as financial improprieties, non-compliance in safety practices or the treatment of human or animal subjects, criminal matters, or personnel actions.
5. This policy applies only to allegations of research misconduct that occurred within six years prior to the date the institution received the allegation, subject to the subsequent use, health or safety of the public, and grandfathered exceptions in federal policy (e.g., 42 CFR § 93.105(b)).
6. To the extent practicable or reasonable, proceedings of a nature different than research misconduct (e.g., academic misconduct, criminal investigation, financial audit or personnel investigation) may proceed simultaneously with research misconduct proceedings provided for in this policy. The Research Integrity Officer (RIO, see Section II.C) is responsible for coordinating with other principals for determining how the multiple processes will be coordinated on a case-by-case basis.

D. Responsibility to Report Conduct

1. All institutional members and affiliates have a responsibility to report observed, suspected, or apparent research misconduct. Allegations may be made directly to the RIO or other University administrators, who will forward it to the RIO. The University will make readily available (e.g. on the University's web site) the contact information and procedures for reporting research misconduct.
2. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may contact the RIO to discuss the suspected research misconduct informally, which may include discussing it 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.
3. Allegations of research misconduct may be discussed or reported anonymously (see Section II.A).

E. Cooperation with Research Misconduct Proceedings

All University members are obliged to cooperate with institutional officials in the review of allegations of research misconduct and to provide evidence relevant to those allegations.

F. Expectation of Good Faith and Protection from Retaliation

1. The University expects that all allegations will be made in good faith. Good faith means having a 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 it is made with knowing or reckless disregard for information that would negate the allegation or testimony. This includes acts or omissions that are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.
2. The University will not tolerate retaliation in any way against an individual who acts in good faith in a matter involving research misconduct proceedings.
3. Institutional members should report immediately any alleged or apparent retaliation to the RIO, who shall review the matter and, as necessary, work with institutional officials to make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person(s) against whom the retaliation is directed. State of Wisconsin employees will also receive state protection from retaliation if the allegations are brought forth according to Wisconsin Statute Section 230.80-.85.
4. If a person makes an allegation or gives testimony that is not done in good faith, the RIO will inform the Deciding Official (see Section II.E.), who will refer the matter for possible disciplinary action.

G. Confidentiality

1. In order to protect the reputation of all parties and to prevent retaliation, the identity of the participants will be kept confidential to the maximum extent possible, limited to those with a need to know to carry out a fair, thorough, competent, and objective proceeding, as allowed by law. The University must disclose the identity of individuals when required by applicable federal regulations, such as when a federal agency reviews a proceeding.
2. The University may use written confidentiality agreements or other mechanisms to ensure that the recipient of information does not make any further disclosure of identifying information.

H. Evidentiary Standard

Consistent with federal requirements, all recommendations and decisions rendered under this policy will be made based on a preponderance of the evidence. Any affirmative defenses raised by Respondent must be proven by Respondent based on a preponderance of the evidence.

II. PERSONNEL

A. The Complainant is the person who makes an allegation of research misconduct.

1. The Complainant may be a member of the University community or have no affiliation with the University.
2. The Research Integrity Officer (RIO, see Section II.C) shall submit to the Designated Research Official (DRO, see Section II.D) an allegation which is brought forth anonymously.
3. The Complainant is responsible for making allegations in good faith.

B. The Respondent is the person against whom the allegation is made.

1. The Respondent is entitled to:
 - a. A good faith effort by the RIO or other institutional official to notify the Respondent that an inquiry is beginning with copies of policies and procedures that will be followed;
 - b. An opportunity to comment on the inquiry and (if necessary) investigation reports and have his/her comments attached to the report;
 - c. Timely written notification of the progress of the proceedings;
 - d. Be interviewed during the investigation, have the opportunity to correct recordings or transcripts of that interview, and have the corrected versions included in the record of the investigation;
 - e. Bring forth any witness who has been reasonably identified as having information on relevant aspects of the investigation;
 - f. Supervised access to the evidence on which the investigation report is based;
 - g. Be advised and represented by counsel or other representative at his/her expense throughout the proceedings and thereafter; and
 - h. Consultation with a university official removed from the investigation (e.g., Vice Provost for Faculty and Staff, Employee Assistance Office, or Ombuds Office) regarding the implementation of this policy and the Respondent's rights.
2. In the circumstance that the Respondent admits that research misconduct occurred and that he/she committed the research misconduct, the RIO may, with the approval of the Deciding Officer and applicable federal agencies or other sponsors that funded the impacted work, advise that the University terminate the institution's review of the allegation and proceed to institutional actions (see Section VI) and complete the case (see Section VIII).
3. As requested and as appropriate, the RIO and other relevant institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

C. The Research Integrity Officer (RIO) has the primary responsibility for implementing policies and procedures related to research misconduct.

1. Responsibilities of the RIO include:
 - a. Meeting confidentially with persons who are uncertain about bringing forward an allegation;

- b. Receiving allegations of research misconduct;
 - c. Assessing an allegation of research misconduct to determine whether it falls within the definition of research misconduct and warrants an inquiry;
 - d. Arranging for the sequestration and secure retention of research data and other evidence pertinent to the allegation;
 - e. Ensuring confidentiality to those involved in the research misconduct proceeding;
 - f. Ensuring that Respondents, Complainants, and others involved in the case are notified as required of the procedures and progress of the proceedings;
 - g. Ensuring that no person involved in handling an allegation has an unresolved or actual conflict of interest;
 - h. Protecting from retaliation or restoring the positions and reputations of good-faith participants of these proceedings in cooperation with other institutional officials;
 - i. Communicating with relevant federal agencies or other sponsors;
 - j. Ensuring that administrative actions are enforced and notifying other relevant parties of those actions;
 - k. Maintaining records of the research misconduct proceeding; and
 - l. Acting upon requests for extension, in conjunction with the Deciding Official, as appropriate.
- D. The Designated Research Official (DRO) works with the RIO to make the initial assessment of an allegation and, if necessary, arranges for and directs the inquiry and investigative phases of the proceedings.
1. The RIO identifies the acting DRO, who is typically a Dean or Vice Chancellor (or their designee) with responsibilities in the school/college or center/institute where the activity giving rise to the allegation took place. In cases where the alleged activity involves more than one unit or there is perceived or actual conflict of interest, the RIO will determine the acting DRO.
 2. The DRO appoints the chair and members of the inquiry and investigation committees in consultation with the RIO, and ensures that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence.
 3. The DRO reviews the inquiry findings and report, and after consulting with the RIO and/or other institutional officials, decides whether an investigation is warranted.
- E. The Deciding Official receives the investigation report and determines the next institutional actions.
1. The Provost will serve as the Deciding Official and shall do so unless a conflict of interest is identified.
 2. The Provost shall delegate this responsibility if there is a conflict of interest at any stage of the process. The Deciding Official should have no direct prior involvement in the assessment, inquiry, or investigation of the allegation. The Deciding Official should have no responsibility for the research under investigation, and no interests that would conflict with the university's interest in securing a fair and thorough investigation.
 3. The Deciding Official has the following responsibilities:
 - a. Determines whether the evidence supports the allegations based on the investigation report;
 - b. Determines appropriate institutional sanctions, if warranted; and
 - c. Determines, in consultation with the RIO (and with permission of the applicable federal agencies or other sponsors), if the matter can be settled without completing the process described in this policy.

III. THE ASSESSMENT

A. Purpose

1. Upon receiving an allegation of research misconduct, the RIO, in consultation with the relevant DRO, will promptly assess the allegation to determine if an inquiry is warranted.
2. In conducting the assessment, the RIO or DRO need not interview the Complainant, Respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific. When the activity is supported by federal funds and questions arise regarding assessment criteria, the RIO should seek guidance from the applicable federal agencies.
3. An inquiry must be conducted if the following criteria are met:
 - a. Whether the conduct falls within the scope of this policy;
 - b. Whether the allegation, meets the definition of research misconduct; and
 - c. Whether the allegation is sufficiently specific so that potential evidence of research misconduct could be identified.

B. Timeline

The assessment period should be brief, preferably concluded within one week.

C. Conclusion of the assessment

1. If the allegation is credible, but does not meet the definition of research misconduct, the RIO and DRO will work with others as appropriate to resolve the issue by other methods.
2. If the assessment determines that the criteria for an inquiry are met, the DRO shall as quickly as practical convene a committee to conduct an inquiry into the allegation.

D. Mitigation of risk

At any point during a research misconduct proceeding, the RIO and relevant officials should take appropriate actions, including notifying relevant state or federal agencies, to mitigate health, safety, financial or other risks resulting from or related to the alleged misconduct and to protect the integrity of ongoing research (e.g. 42 CFR § 93.318).

IV. THE INQUIRY

A. Purpose

The purpose of the inquiry is to advise the DRO, who determines whether or not to conduct a full investigation of the allegation. The inquiry reviews the available evidence to separate allegations deserving of further investigation from those which are unjustified or clearly mistaken. An inquiry does not require a full review of all the evidence related to the allegation.

B. Timeline

The inquiry should commence as quickly as practical. The inquiry, including preparation of the final inquiry report and the decision of the DRO on whether an investigation is warranted, must be completed within 60 days of initiation of the inquiry. Any extension of this deadline requires documentation of unusual circumstances and must be approved by the Deciding Official.

C. Notification and Evidence Sequestration

1. At the time of or before beginning an inquiry, the RIO must notify the Respondent in writing of the allegations and these procedures for addressing the allegations. If the inquiry subsequently identifies additional Respondents, they must be notified similarly.
2. On or before the date on which the Respondent is notified, or the 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, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.
3. Upon request, the Respondent may receive a copy of the allegations, redacted to protect the confidentiality and interests of the Complainant and others, after evidence sequestration has occurred.

D. Inquiry Committee

1. The inquiry committee shall consist of at least three individuals who have no responsibility for the research under inquiry, who can be impartial, and who have no interests that would conflict with securing a fair and thorough inquiry. The committee, as a whole, shall have the competence and expertise appropriate for the inquiry. When necessary to secure the needed expertise or to avoid conflicts of interest, the DRO may select committee members from outside the institution.
2. In general, the inquiry committee should consist of faculty, but others may serve (e.g., to provide technical expertise or the perspective of the Respondent's employment group). Where the respondent is a faculty member the Inquiry Committee shall consist of a majority of University faculty members.
3. The inquiry committee will normally interview the Complainant, the Respondent, and key witnesses as well as examine relevant research records and materials. Then the inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry and recommend whether or not an investigation is warranted based on the criteria in this policy, including but not limited to, the criteria in Sections I.C, III.A.3. and IV.D.4.
4. The scope of the inquiry does not require, 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 the Respondent makes an admission of research misconduct, misconduct may be determined at the inquiry stage if all relevant issues are resolved, and with the approval of applicable federal agencies or other sponsors. Thereafter, the Deciding Official may take necessary institutional actions (see Section VI) and complete the case (see Section VIII).

E. The Inquiry Report

1. A written inquiry report must be prepared and include the following information:
 - a. The name and position of the Respondent;
 - b. A description of the allegations of research misconduct;
 - c. The funding source, including, for example, grant numbers, grant applications, contracts and publications listing the support; and
 - d. The basis for recommending or not recommending that the allegations warrant an investigation.

2. The RIO will provide the Respondent and Complainant, under a confidentiality agreement if necessary, a draft copy of the inquiry report for comment within 10 days. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. Any comments that are submitted to the RIO by the Respondent or Complainant will be attached to the final inquiry report, which is sent to the DRO.

F. Conclusion of the Inquiry

1. The DRO, in consultation with the RIO, will decide in writing whether or not to pursue an investigation, based on the available evidence and inquiry committee's report. The inquiry is completed when the DRO makes this determination.
2. The DRO will notify the RIO, Respondent, and Complainant of the completion of the inquiry and the DRO's determination. If the determination does not result in an investigation, the determination shall be reported to the Deciding Official.
3. The DRO initiates an investigation if he/she determines that one is warranted pursuant to Section V.B.1.
4. If the DRO decides that an investigation is not warranted, the determination is forwarded to the RIO. All personnel involved in the matter must be informed of this determination, and the RIO will take steps to resolve the case by other appropriate means, conclude the case, and restore or protect the Respondent's reputation (section VIII).
5. The RIO may, in consultation with the Deciding Official, request corrective action (e.g., re-training in good laboratory practices) even if an investigation is not pursued.

V. THE INVESTIGATION

A. Purpose

The purpose of the 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 investigation will also determine whether additional instances of possible research misconduct exist that would justify broadening the scope beyond the initial allegations.

B. Timeline

1. If the DRO determines that an investigation is warranted, the investigation must begin within 30 days of that determination.
2. The investigation should be completed within 120 days of charging the investigation committee, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to applicable federal agencies or other sponsors. However, if the investigation committee determines that the investigation will not be completed within this 120-day period, they should notify the RIO who will consult with and request additional time from the Deciding Official and applicable federal agencies or other sponsors.

C. Required Notifications

1. On or before the date on which the investigation begins, the RIO must notify the Respondent in writing of the allegations to be investigated.

2. The RIO must give the Respondent written notice of any new allegations of research misconduct not addressed during the inquiry or in the initial notice of the investigation within 30 days of discovery of the new allegations.
3. On or before the date on which the investigation begins, the RIO must notify the relevant applicable federal agencies or other sponsors and provide a copy of the inquiry report and any other required documentation.

D. Additional Sequestration

Prior to notifying the Respondent of further allegations and the investigation, the RIO will take all reasonable and practical steps to obtain custody of and sequester in a secure manner any research records and evidence needed to conduct the investigation that were not previously sequestered during the 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 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.

E. Appointment of the Investigation Committee

1. The DRO, in consultation with the RIO and other institutional officials as appropriate, will appoint an investigation committee and chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of at least three individuals with no unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the Respondent and Complainant and conduct the investigation.
2. In general, the investigation committee should consist of faculty, but others may serve (e.g., to provide technical expertise or the perspective of the Respondent's employment group). Where the Respondent is a faculty member the Investigation Committee shall consist of a majority of University faculty members. Individuals appointed to the investigation committee may also have served on the inquiry committee. When necessary to secure the needed expertise or to avoid conflicts of interest, the DRO may select committee members from outside the institution.
3. The Respondent may state objections, and provide justification, to the DRO's selection of members of the investigation committee. A determination on the objections shall be made by the DRO in consultation with the RIO.

F. Charge to the Investigation Committee

1. The DRO will provide the investigation committee with a formal written charge that:
 - a. Identifies the Respondent;
 - b. Describes the allegations and related issues identified during the inquiry;
 - c. Informs the committee that it must conduct the investigation as prescribed in this policy and by any other applicable regulations;
 - d. Defines research misconduct;
 - e. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent and who was responsible;
 - f. Informs the committee that in order to determine that the Respondent committed research misconduct it must find that a preponderance of the evidence establishes that:
 - i. Research misconduct, as defined in this policy in Section I.C., occurred [Note that affirmative defenses raised by Respondent (e.g., honest error or a difference of opinion) must

be proven by Respondent by a preponderance of the evidence];

- ii. The research misconduct is a significant departure from accepted practices of the relevant research community; and
- iii. The Respondent committed the research misconduct intentionally, knowingly, or recklessly; and
- g. Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and other applicable regulations.

G. Investigation Process

1. The investigation committee must:

- a. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;
- b. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical, which includes assuring presentation of all that both supports or disputes misconduct;
- c. Interview each Respondent, Complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the Respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
- d. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including evidence of additional instances of possible research misconduct, and continue the investigation to completion, requesting expert opinions, other information, records and data as needed.

H. Conclusion of the Investigation

1. The investigation committee shall prepare a written report of the investigation that:

- a. Provides the name and position of the Respondent(s);
- b. Describes the nature of the allegations (i.e., fabrication, falsification, or plagiarism) of research misconduct;
- c. Describes the specific allegations of research misconduct considered in the investigation;
- d. Describes and documents funding sources related to the work in question, including, for example, grant numbers, grant applications, pending applications, contracts, and publications listing that support;
- e. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed;
- f. Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must:
 - i. identify whether the research misconduct involved falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly;
 - ii. summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the Respondent, including any effort by Respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion;
 - iii. identify the specific funding support;
 - iv. identify whether any publications need correction or retraction; and
 - v. identify the person(s) responsible for the misconduct.

- 2. The Respondent will be provided for comment a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based. The DRO, in consultation with the RIO, also has the discretion to provide to the Complainant

portions or the entire draft of the report for comment. The Respondent and Complainant (if applicable) will be allowed 10 calendar days from receipt to comment on the report. The comments must be included and considered in the final report.

3. The DRO and RIO may assist the investigation committee in finalizing the investigation report, including ensuring that the comments of the Respondent and Complainant (if applicable) are included and considered
4. The DRO will transmit the final investigation report to the Deciding Official and copy the RIO.

VI. INSTITUTIONAL DECISION AND ACTIONS

A. Decision

1. Upon receiving the investigation report, the Deciding Official will determine in writing:
 - a. Whether the institution accepts the investigation report and its findings; and
 - b. The appropriate institutional actions in response to the accepted findings.
2. An institutional decision finding research misconduct requires that the allegation is proven by a preponderance of the evidence.
3. The Deciding Official will convey the decision in writing to the Respondent, Complainant, RIO and other key personnel involved in the case.

B. Timeline

The decision of the Deciding Official should be made within 20 days of receipt of the investigation report.

C. Decision Options

1. If the Deciding Official's determination varies from the findings of the investigation committee, the Deciding Official will explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the Deciding Official may return the report to the investigation committee with a request for further fact-finding or analysis.
2. If the Deciding Official determines that research misconduct occurred, the Respondent has the right to appeal the decision.
 - a. If the Respondent appeals a decision, the Deciding Official initiates the appeal process (see Section VII).
 - b. If the Respondent does not appeal the decision, he/she is deemed to have waived the right to such review, and the decision of the Deciding Official is final.
3. If the Deciding Official determines that research misconduct did not occur, the Deciding Official will direct the RIO to complete the case and take steps to restore the reputation of the Respondent (see Section VIII).

D. Institutional Actions

1. If research misconduct is determined, the Deciding Official will consult with the DRO and others to decide the appropriate actions to be taken. These may include, but are not limited to:
 - a. Removal of the responsible person from the particular project, letter of reprimand, special

monitoring of or restrictions placed upon future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;

- b. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
 - c. Restitution of funds to the grantor agency as appropriate;
 - d. Disciplinary action against a student, such as loss of course credit or degree requirement, probation, suspension, or expulsion; and
 - e. Other actions appropriate to the research misconduct.
2. If the institutional action involves a dismissal decision which the Respondent does not appeal, the Chancellor may proceed under UWS 4.07 (faculty), UWS 11.07 or 11.11 (academic staff), or such other policy or regulation governing review of the decision as applicable (other employees or students).

VII. APPEAL (optional)

A. Initiating an Appeal

1. The request for appeal shall be addressed in writing to the Deciding Official who shall forward it to the chair of the relevant appeal committee, as designated in Section VII.C, for appropriate proceedings and notify the DRO. The request for appeal must set forth the substantive or procedural reasons the Respondent believes the decision is erroneous.
2. In an appeal from the institutional decision under this Section, the University bears the burden of proof for all issues related to the allegations of misconduct. The Respondent bears the burden of proof for any claims asserted in opposition to the institutional decision.
3. When applicable, the RIO will notify applicable federal agencies or other sponsors of the decision to initiate an appeal and request an extension, if necessary, because the appeal will extend the university's process beyond timelines dictated in agency policies.
4. During an appeal no discipline or other sanction will be imposed as a consequence of the finding of research misconduct made by a committee under Sections IV or V above, except for actions to mitigate potential risks associated with the alleged misconduct (e.g., Section III.D).

B. Timeline

1. The Respondent may submit a request for appeal within 10 days after service of the notice of the institutional decision. If an appeal is not requested by the deadline, the Respondent is deemed to have waived the right to such review. In that case, the decision of the Deciding Official is final and the Chancellor may proceed under UWS 4.07 (faculty), UWS 11.07 or 11.11 (academic staff), or such other policy or regulation governing review of the decision as may be applicable (other employees or students).
2. The appeal procedure should ordinarily be completed by the committee within 45 days of its initiation. This includes preparing the draft report of the recommendations, making that report available for comment by the Respondent, and submitting the final report to the Chancellor. If it appears that the committee will be unable to complete the report within 45 days, the RIO may grant an extension after securing permission from the appropriate applicable federal agencies or other sponsors, if applicable.

C. Committees Designated to Hear Appeals

1. If the Respondent is a faculty member, the Committee on Faculty Rights and Responsibilities (CFRR) shall hear the appeal. The chair of the CFRR, in consultation with the RIO, may

substitute up to two regular members of the CFRR with not more than two special members of the CFRR who have the scholarly competence and expertise appropriate for the hearing of this matter.

2. If the Respondent is an academic staff member, the Academic Staff Appeals Committee (ASAC) shall hear the appeal. The chair of the ASAC, in consultation with the RIO, may substitute up to two regular members of the ASAC with not more than two special members of the ASAC who have scholarly competence and expertise appropriate for the hearing of the matter.
3. If the Respondent is an employee of the university who is neither a member of the faculty nor the academic staff, the Vice Chancellor for Research and Graduate Education shall appoint an ad hoc appeal committee comprised of three individuals who have scholarly competence and expertise appropriate for the hearing of the matter. The Vice Chancellor for Research and Graduate Education shall consult with leaders of shared governance and research administration, as appropriate, prior to selection of members for the ad hoc appeal.
4. If the Respondent is an undergraduate or graduate student, the appeal shall follow the process set forth in Chapter UWS 14 of the Wisconsin Administrative Code.
5. No members of the appeal committee, including any special members, shall have served on either the inquiry committee or the investigation committee, nor should they have responsibility for the research under investigation or any other interests which would conflict with the university's interest in securing a fair and thorough hearing on appeal.

D. Conduct of the Appeal

1. Issues on Appeal. The CFRR, ASAC, or the ad hoc committee appointed by the Vice Chancellor for Research may conduct a hearing on appeal from the decision of the Deciding Official on the following grounds:
 - a. That the decision is clearly erroneous;
 - b. That the decision erred in application of the law and this error influenced the outcome of the decision;
 - c. That the recommended sanction is inappropriate.
2. Opportunity to Appear
 - a. If the Respondent makes a timely request for review by the CFRR, ASAC or an ad hoc committee, the body hearing the appeal will provide an opportunity for the Respondent and both the DRO and Deciding Official, to submit a written statement and to appear personally before committee.
 - b. The committee, based on the record and any statement and arguments submitted by the Respondent, DRO or Deciding Official, will render a report with its findings and conclusions and provide it to the Chancellor for review.
3. Procedures after appeal shall follow the appropriate administrative regulations based upon the Respondent's relevant employment or student status (e.g., UWS 4.07 and 4.08 or UWS 6.01 for faculty; UWS 11.07-11.10 or 11.11 for academic staff; UWS 14 for students).

E. Hearing Process

1. Any committee hearing an appeal under section VII will be provided, upon request, legal counsel pursuant to Sections UWS 4.06(f) and 11.06 (2)(b).
2. A hearing on an appeal initiated under this section shall commence no later than 20 days after

the appeal request. This time limit may be extended by mutual written consent of the parties or by order of the hearing committee. The appeal/hearing shall be a fair hearing and shall include the procedures and rights provided for relevant employee or student categories, e.g., for faculty members in Sections UWS 4.05, 4.06, for academic staff members in Sections UWS 11.05 and 11.06, and for students in Sections UWS 14.08 and 14.09.

3. All evidence, materials, and reports collected during earlier phases of the assessment, inquiry and investigation shall be made available to the committee hearing the appeal. The committee may request additional materials as it deems appropriate. All new information must be shared with the Respondent.
4. If the RIO or the committee hearing the appeal learns of previously unavailable material evidence relevant to the finding of misconduct during the appeal, it shall be the responsibility of the RIO to inform the Deciding Official and the Respondent of the new evidence. If the Deciding Official concurs that the new evidence could materially affect the finding of misconduct, the Deciding Official shall remand the finding of misconduct to the Investigation Committee that made the finding for consideration of the new evidence. The Investigation Committee shall notify the Deciding Official within 14 days that it finds the new evidence immaterial to its prior finding or that it wishes to reopen the matter. The Deciding Official may extend this period for good cause by notice to the Respondent, RIO, and other involved parties.

F. Findings and Decision

1. The committee hearing the appeal will prepare a draft report and provide it to the Respondent, who will have 10 days from receipt of the draft report to submit a response to the committee. At the end of that ten-day period, the committee will prepare a final report for the Chancellor. The final report of the hearing committee should include the policies and procedures under which the hearing was conducted, the findings of the committee, and the basis for the findings, and any recommended sanction(s).
2. In the event of prior involvement in the case, relationship with the Respondent or Complainant, or other conflict of interest, the Chancellor shall appoint a designee to decide the appeal.
3. If the appeal challenges the finding of research misconduct, the Chancellor or designee shall issue a decision and rationale affirming or reversing the finding.
4. If the appeal concerns the institutional actions or sanction, the Chancellor or designee shall issue a decision and rationale to affirm, reject or modify the action.
5. The appeal decision shall be made within 30 days after the submission of the recommendation by the committee hearing the appeal. The Chancellor may extend this period for good cause by notice to the Respondent, RIO and other parties.

VIII. COMPLETION OF CASES

A. Requirement to Pursue Allegations to Completion

1. All inquiries and investigations will be carried through to completion, and all significant issues will be pursued diligently.
2. If the Respondent wishes to close the case at any time during the proceedings identified in this policy through an admission of guilt or settlement with the University, the RIO must first notify applicable federal agencies and other sponsors and obtain approval in advance.

3. If the Respondent's institutional employment is terminated, by resignation or otherwise, the RIO will ensure that the process for addressing the allegations is pursued to completion.
4. If the Respondent refuses to participate in the process after resignation, the RIO, DRO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, and report the Respondent's failure to cooperate and its effect on the evidence.

B. Notice to Applicable Federal Agencies and/or Other Parties

1. When applicable, the RIO must provide the applicable federal agencies or other sponsors with information about the finalization of the case, including:
 - a. A copy of the final investigation and appeal reports with all attachments;
 - b. A statement of whether the institution accepts the findings of the investigation report and the outcome of the appeal;
 - c. A statement of whether the institution found misconduct and, if so, who committed the misconduct; and
 - d. A description of any pending or completed administrative actions against the Respondent.
2. Following a finding of research misconduct, the RIO shall ensure that other affected parties are notified, such as research collaborators, professional licensing boards, and professional societies.

C. Restoration of the Respondent's Reputation

Following a final finding of no research misconduct, including concurrence when required by the applicable federal agencies or other sponsors, 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. Any institutional actions to restore the Respondent's reputation should first be approved by the Deciding Official.

D. Maintaining Records for Review

After completion of the case, whether or not the decision was made to conduct an inquiry or investigation, and completion of all ensuing related actions (e.g., federal investigation or litigation), the RIO will ensure that all records of the proceedings will be maintained securely seven years in compliance with applicable state and federal requirements.

[UW Madison Faculty Documents 867a - 4 February 1991 (II-314-II-319); UW-Madison Faculty Document 2006 and 2006a - 3 March 2008 (II-321-II-322)]
[2668a, 6 February 2017 (re-numbered to all II-314)]