

## **C- 4. SCIENTIFIC MISCONDUCT POLICY**

The University's Policy on Scientific Misconduct was developed to effect compliance with the requirements of the Public Health Service Final Rule on "Responsibilities of Awardees and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science" (42 CFR Part 50). Allegations of scientific misconduct made against any faculty, staff, or student of the University involved in research or research training, application for support of research or research training, or related research activities shall be handled according to the policies and procedures included in Auburn's policy statement on Scientific Misconduct, quoted below from the *Board of Trustees Policies Manual*, pp. C-10-16.

Misconduct in research, herein defined as scientific misconduct, is inappropriate behavior. Allegations of scientific misconduct made against individuals involved in research, or research training, applications for support of research or research training, or related research activities will be handled according to the policies and procedures included herein. Additional policies and procedures for scientific misconduct which apply only to Public Health Service supported research are provided in the section titled *ADDITIONAL POLICIES APPLICABLE ONLY TO PUBLIC HEALTH SERVICE FUNDED RESEARCH*.

### **DEFINITIONS**

- A. "Misconduct" or "Misconduct in Science" means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.
- B. "Inquiry" means information gathering and initial fact finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
- C. "Investigation" means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

### **ALLEGATIONS**

Initial allegations should be reported to the Dean(s) of the college(s) or school(s) in which the alleged misconduct occurred. The Dean(s) must immediately report such allegations to the Vice President for Research. If the Vice President for Research has possible conflicts of interest, the allegations shall be referred to the Provost and Vice President for Academic Affairs. In the event of such conflict, "Provost and Vice President for Academic Affairs" shall be substituted for "Vice President for Research" hereinafter.

The Vice President for Research shall informally review any allegation of scientific misconduct, confer with the appropriate Dean(s) and University administrators, and determine whether the allegation warrants initiation to the inquiry process. The Vice President for Research shall discuss with the person making the allegations (hereafter referred to as the complainant(s)) the University's scientific misconduct policies and procedures. If the complainant(s) chooses to make a formal allegation and the Vice President for Research determine that the allegation warrants initiation to the inquiry process, the inquiry shall be initiated immediately.

In order to effectively follow through with any allegations of misconduct, the identity of the complainant(s) must be revealed to the Vice President for Research. Where the complainant seeks anonymity, the Vice President for Research shall operate in such a way as to maintain that anonymity to the degree compatible with accomplishing the initial reviews. However, such anonymity cannot be assured. Further, anonymity of the complainant is neither desirable nor appropriate where an inquiry is instituted.

The University shall pursue an allegation of misconduct to the extent it is reasonably capable of doing so, even if the individual(s) against whom the allegation is made (hereafter referred to as the respondent(s)) has left the University before the case is resolved.

All reported allegations should be kept confidential to the extent permissible by law, and the University will undertake diligent efforts to protect the positions and reputations of those complainant(s), who, in good faith, make allegations of misconduct. If an allegation is found to be unsupported but has been submitted in good faith, no further action, other than informing all involved parties, shall be taken. The notification and the proceedings of an inquiry or an investigation, including the identity of the respondent(s), shall be held in strict confidence to protect the parties involved. If confidentiality is breached by the University, the University shall take such reasonable steps as are requested to minimize the damage to reputations that may result from unsupported allegations.

## **INQUIRY**

An inquiry is designed to separate allegations deserving of further investigation from frivolous, unjustified, or clearly mistaken allegations. Factual information is gathered and expeditiously reviewed to determine if an investigation of the charge is warranted.

The Vice President for Research shall appoint an Inquiry Committee of no less than three (3) persons. The Committee shall consist of senior tenured faculty who are without conflict of interest, hold no appointment in the department(s) of either the complainant(s) or the respondent(s), and have appropriate expertise for evaluating the information relevant to the case. In the event of conflict of interest or need to acquire appropriate expertise, the Vice President for Research may go outside the University to

select one or more Committee members. Every effort shall be made to appoint a Committee of Inquiry within fifteen (15) days, but the Committee must be appointed within thirty (30) days from the receipt of the allegation.

The inquiry phase, including preparation of the written Report of Inquiry, shall be completed within sixty (60) calendar days of its initiation unless circumstances clearly warrant a longer period. In such circumstances, the Committee shall advise the Vice President for Research who shall notify all relevant parties. The Report of Inquiry shall include documentation for justifying an extension of the 60-day period.

Records and proceedings of the inquiry are confidential and are to be passed on to a Committee of Investigation if an investigation is initiated. In any case, the records should be kept secure, and if no misconduct is found, records should be destroyed three (3) years after completion of an inquiry. Making the records public without authorization is grounds for a charge of misconduct.

The Vice President for Research is responsible for notifying respondent(s) in writing of the allegations and of the proposed membership of the Committee of Inquiry for the purpose of identifying in advance any real or potential conflict of interest. As the inquiry is informal and intended to be expeditious, principals are expected to speak for themselves. All individuals may have the assistance of legal counsel and shall have the opportunity to present evidence and to call witnesses.

During the inquiry, the Vice President for Research and the members of the Committee are responsible for the security of relevant documents. Copies of all documents and related communications are to be securely maintained in the Office of the Vice President for Research.

The completion of an inquiry is marked by a determination of whether or not an investigation is warranted. The Committee's recommendation to proceed to an investigation shall be based on demonstrated probable cause for each allegation. The Committee shall prepare a written Report of Inquiry that states what evidence was reviewed, summarizes relevant interviews, and includes the findings and recommendations of the inquiry. The Report of Inquiry shall be submitted to the Vice President for Research who shall be responsible for notifying the respondent(s) and complainant(s) of the outcome within ten (10) working days.

The respondent(s) shall be given a copy of the Report of Inquiry and the opportunity to comment in writing upon the findings and the recommendations. If the respondent(s) chooses to comment, such comments shall be forwarded as soon as possible but must be forwarded within ten (10) working days. The respondent(s)' comments shall be made a part of the record.

If the outcome of the inquiry indicates a need for formal investigation, the Vice President for Research, shall notify this fact in writing to the appropriate Dean(s) and University administrators on or before the date the investigation begins. If the Vice

President for Research finds the allegations to be unfounded and malicious, appropriate University procedures may be invoked to address possible actions to be taken against the complainant(s).

## **INVESTIGATION**

The purpose of an investigation is to determine whether scientific misconduct has been committed. The investigation shall focus on accusations of misconduct as defined previously and examine the factual materials of each case. In the course of an investigation, additional information may emerge that justifies broadening the scope of the investigation beyond the initial allegations. The respondent(s) shall be informed in writing when significant new directions of investigations are undertaken.

The Vice President for Research shall appoint an Investigating Committee of no less than three (3) persons. The Committee shall consist of senior tenured faculty who are without conflict of interest, hold no appointment in the departments of either the complainant(s) or the respondent(s), and have appropriate expertise for evaluating the information relevant to the case. In the event of conflict of interest or need to acquire appropriate expertise, the Vice President for Research may go outside the University to select one or more Committee members. Every effort shall be made following the determination that an investigation is warranted to appoint an Investigating Committee within fifteen (15) days, but the Committee must be appointed within thirty (30) days. The Investigating Committee may or may not consist of the same membership as the Inquiry Committee.

Every effort should be made to complete the investigation within 120 days of its initiation; however, it is acknowledged that some cases may render this time period difficult to meet. In such cases, the Investigating Committee should compile a progress report, identify reasons for the delay and notify the Vice President for Research of the additional time necessary for the investigation.

The Vice President for Research shall convey to all relevant parties such information as may be required and shall notify all parties in writing of the allegations and of the procedures that shall be used to examine the allegations. Further, they shall be informed of the proposed membership of the Committee of Investigation for the purpose of identifying in advance any real or potential conflict of interest.

All parties to the case may be represented by legal counsel, may present evidence, and may call and examine witnesses. The investigation normally shall include examination of all documentation, including but not necessarily limited to relevant research data and proposals, publications, correspondence, and memoranda of telephone calls. The Committee shall attempt to interview all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations. Summaries of these interviews shall be provided to the interviewed party for comment or revision and included as part of the investigatory file. The Committee may request the

involvement of outside experts. The investigation must be sufficiently thorough to permit the Committee to reach a decision about the validity of the allegation(s) and the scope of the wrong doing or to be sure that further investigation is not likely to alter an inconclusive result. In addition to making a judgment on the veracity of the charges, the Committee may recommend to the Vice President for Research appropriate sanctions.

As the University is interested in protecting the health and safety of research subjects, students and staff, interim administrative action may be warranted prior to the conclusion of either the inquiry or the investigation. Such action ranging from slight restrictions to complete suspension of the respondent(s) and notification of external sponsors, when required by Federal regulations, is initiated by the Vice President for Research.

All parties in the investigation are encouraged to cooperate by producing any additional data requested for the investigation. Copies of all materials secured by the Committee shall be provided to the respondent(s) and may be provided to other concerned parties as judged appropriate by the Committee. The respondent(s) shall have an opportunity to address the charges and evidence in detail.

After all evidence has been received, the Investigating Committee shall meet to deliberate and prepare its findings and recommendations. The Committee shall find no scientific misconduct unless a majority of the members conclude by clear and convincing evidence, based on the record as a whole, that the allegation(s) have been substantiated. All significant developments during the investigation, as well as the findings and recommendations of the Committee, shall be reported to the Vice President for Research and to all Federal agencies, sponsors, or other entities with a need to know.

Upon completion of the investigation, the Committee shall submit to the Vice President for Research a full written report which details the Committee's findings and recommendations. This report shall be sent also to the respondent(s) by the Vice President for Research within ten (10) days of its receipt. The respondent(s) shall be given the opportunity to comment in writing upon the findings and the recommendations. If the respondent(s) chooses to comment, such comments shall be forwarded as soon as possible but must be forwarded within ten working days. The respondents' comments shall be made a part of the record.

## **RESOLUTION**

In the absence of a finding of scientific misconduct, all parties informed of the investigation shall be informed in writing that allegations of misconduct were not supported. If the allegations were deemed to have been unfounded and maliciously motivated, appropriate actions shall be taken against the complainant. If the allegations were deemed to have been made in good faith, no additional measures are indicated and efforts shall be made to prevent retaliatory actions. In publicizing the findings of no misconduct, the University shall be guided by whether public announcements shall be

harmful or beneficial in restoring any reputation(s) that may have been damaged. Usually, such decision shall be made in conjunction with the person(s) who was innocently accused.

When it has been determined that scientific misconduct has occurred, the Vice President for Research shall consider the recommendations of the Committee and shall be responsible for determining and implementing sanction(s) as appropriate. The respondent(s) shall be notified in writing of the sanction(s) within twenty (20) days. If the sanction(s) involve termination of employment, the University termination procedures shall be invoked. The University must take action appropriate for the seriousness of the misconduct. Sanctions shall not be imposed during the appellate process.

### **APPEAL**

Respondent(s) may appeal the decision of the Vice President for Research. A written statement of the grounds for the appeal must be submitted to the President within thirty (30) days of written notification of the sanction(s). Appeals shall be restricted to the body of evidence already presented, and the grounds for appeal shall be limited to failure to follow appropriate procedures in the investigation or decisions/recommendations not supported by any reasonable evidence. Upon receipt of a written appeal, the President shall evaluate the evidence and make a determination. The President's decision shall be binding on all parties and shall be conveyed to all involved in a timely fashion.

Although new previously unconsidered material evidence is not grounds for an appeal, the Respondent(s) may submit a request to the President to reopen the Investigation in the event such evidence becomes available.

### **POLICIES APPLICABLE ONLY TO PUBLIC HEALTH SERVICE FUNDED RESEARCH**

The Vice President for Research will notify the Office of Research Integrity when, at any stage of the inquiry or the investigation, there is an immediate health hazard; there is a need to protect Federal funds, equipment, or individuals affected by the inquiry or the investigation; and it is probable that the alleged incident will be reported publicly. If there is reasonable indication of possible criminal violations, the Vice President for Research shall notify the Office of Research Integrity within twenty-four (24) hours.

When the inquiry determines that an investigation is not warranted, the University will maintain sufficient documentation of inquiries to permit a later assessment of the reasons. These records shall be maintained in a secure manner for a period of at least three (3) years after the termination of an inquiry, and shall, upon request, be provided to the authorized Department of Health and Human Services personnel.

If the University plans to terminate an inquiry or an investigation for any reason without completing all relevant requirements which are designated in this policy, then a report of the planned termination, including a description of the reasons for such termination, shall be made to the Office of Research Integrity.

If the outcome of the inquiry indicates a need for formal investigation, the Vice President for Research, shall notify this fact in writing to the Office of Research Integrity on or before the date the investigation begins. At a minimum, the notification should include the name of the respondent(s) against whom the allegations have been made, the general nature of the allegation, and the Public Health Service application or grant number(s) involved.

The Investigating Committee shall immediately advise the Vice President for Research of any developments during the course of the investigation which disclose facts that may affect current or potential Department of Health and Human Services funding for respondent(s) under investigation or that the Public Health Service needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest, and the Vice President for Research shall promptly appraise the Office of Research Integrity of these developments.

When the Investigating Committee is unable to complete the investigation in 120 days, the Vice President for Research shall submit to the Office of Research Investigation a request for an extension, and it shall include an explanation for the delay, an interim report on the progress to date, an outline of what remains to be done, and an estimated date of completion. If this request is granted, the Vice President for Research will file periodic progress reports, as requested, to the Office of Research Integrity.

The Vice President for Research shall submit the final Report of Investigation to the Office of Research Integrity. This report shall describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings. It should also include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions taken by the University. Documentation which substantiates the investigation's findings will be made available to the Director of the Office of Research Integrity. If they can be identified, the respondent(s) who raised the allegation should be provided with those portions of the report that addresses their role and opinions in the investigation. All records of the investigation shall be retained for a period of three (3) years after PHS acceptance of the final Report of Investigation.

ADOPTED: February 9, 1990

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REAFFIRMED: June 19, 2009