

# **Policy on Research Misconduct and Procedures for Responding to Allegations of Research Misconduct**

## **The University of North Carolina at Greensboro (Approved by the Board of Trustees, September 6, 2007)**

The purpose of this document is to set forth the University's policy with regard to the standards expected of its faculty, staff, and students concerning research misconduct. It also describes the procedures to be used in those instances in which allegations of misconduct are made. The procedures are designed to provide for a fair hearing, to discourage frivolous or malicious charges, and to take those actions necessary when misconduct has been demonstrated.

### **I. Policy**

It is the policy of The University of North Carolina at Greensboro that research carried out by its faculty, staff, and students be characterized by the highest standards of integrity and ethical behavior. Each member of the University community has a personal responsibility for implementing this policy in relation to any scholarly work with which he or she is associated and for helping his/her colleagues in continuing efforts to avoid any activity which might be considered in violation of this policy. This policy applies to all authors/investigators regardless of their role in the publication/work. Failure to comply with this policy shall be dealt with according to the procedures specified herein and is considered to be a violation of the trust placed in each member of the faculty and staff. Violations may lead to serious sanctions including dismissal.

Violations of this policy include any use of this policy or its procedures to bring malicious charges or charges not otherwise in good faith against any individual and any act of retaliation or reprisal against an individual for reporting in good faith a charge of misconduct in research. Such violations will be addressed using regular administrative processes for violations of University policies up to and including dismissal.

### **II. Definitions**

- a. "Research" means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. For the purposes of this Policy, research includes all basic applied and demonstration research in all academic and scholarly fields. Research fields include, but are not limited to, the arts, basic and applied sciences, liberal arts, and social science. It also includes research involving human or animal subjects.
- b. "Research Misconduct" is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting results. Research misconduct does not include honest error or differences of opinion.

- c. “Fabrication” is making up data or results and recording or reporting them.
- d. “Falsification” is manipulating research materials, equipment, processes, changing or omitting data and/or results such that the research is not accurately represented in the research record. The research record is the record of data or results that embody the facts resulting from the research inquiry. The record includes, but is not limited to research proposals, laboratory records—both physical and electronic—progress reports, abstracts, theses and dissertations, oral presentations, internal reports, books, and journal articles.
- e. “Plagiarism” is the use of another person’s ideas, processes, results, or words without giving appropriate credit.
- f. “Institutional Official” is a department head, a dean, the Provost, the Vice Chancellor for Research and Economic Development (VCRED), the Research Integrity Officer, the Chancellor, or the University Counsel.
- g. “Research Integrity Officer” (RIO) is an institutional official (usually the Director of the Office of Research Compliance), designated by the VCRED. The VCRED may, at their discretion, serve as the campus RIO.
- h. “Complainant” is a person who makes an allegation of research misconduct.
- i. “Allegation” is any written or oral statement or other indication of possible research misconduct made to an institutional official.
- j. “Inquiry” is a preliminary evaluation of the available evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence to warrant an investigation of possible research misconduct.
- k. “Investigation” is an evaluation of all relevant facts to determine if research misconduct has occurred and, if so, to determine the responsible person(s) and the seriousness of the research misconduct.
- l. “Respondent” is the person against whom an allegation of research misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.
- m. “Agency” is an organization, company, or bureau that provides some service for another entity. Examples of agencies include but are not limited to: federal/state government, publishing companies, collaborators, foundations or other universities.
- n. A finding of research misconduct requires that:
  - i. There be a significant departure from accepted practices of the relevant research community; and

- ii. The misconduct be committed intentionally, knowingly, or recklessly; and
- iii. The allegation be proven by a preponderance of the evidence.
- o. “Preponderance of the Evidence” means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

### **III. Authority and Responsibility for Oversight and Implementation of the Policy**

The Chancellor delegates to the Vice Chancellor of Research and Economic Development (VCRED) the responsibility for implementing the Policy on Research Misconduct and the Procedures for Responding to Allegations of Research Misconduct. The VCRED has administrative authority with respect to the oversight, implementation, maintenance and revision of this Policy, in accordance with the University’s obligations and responsibilities. Among other things, the VCRED will be responsible for the responsibilities listed below. These responsibilities will be shared with the RIO as deemed appropriate by the VCRED.

- a. Fostering a research environment that discourages misconduct in all research.
- b. Appointing committee members with the particular expertise in the research to evaluate the evidence and issues related to the allegation, avoiding real or apparent conflicts of interest among those involved and assuring that a full, fair, and complete inquiry, investigation, and resolution process is conducted.
- c. Assuring that no real or apparent conflicts of interest arise in those appointed to implement the procedures, that they have the appropriate disciplinary expertise and that due regard is given to the prevailing standards of the field.
- d. Notifying concerned parties such as sponsors, co-authors, collaborators, editors, licensing boards, professional societies, and criminal authorities of the outcome of investigations and making the best possible efforts to clear the name of anyone falsely charged, if appropriate or required.
- e. Coordinating the procedures related to allegations of research misconduct.
- f. Disseminating policy and maintaining records related to misconduct in research.
- g. Determining, in consultation with the University Counsel and Office of Sponsored Programs, whether law, regulation, or the terms and conditions of a research grant or award require notification of the sponsor, specify time limits, or require other actions to assure compliance with externally imposed requirements if extramural funds are involved, and, if so, coordinate the inquiry and investigation with all involved individuals and offices to assure compliance.
- h. Assuring appropriate confidentiality or anonymity, fairness, and objectivity of proceedings.

- i. Assuring a full, fair, and complete inquiry, investigation, and resolution process.
- j. Maintaining confidentiality of records, in accordance with established University policy, relating to the inquiry, investigation and resolution of incidents of misconduct in research.
- k. Protecting, to the extent possible, the positions and reputations of those persons who, in good faith, make allegations of research misconduct, and those against whom allegations of misconduct have been made but whose guilt or innocence is not yet proven.
- l. Assuring that if decision-making persons (VCRED, Provost, or Department head/Direct Supervisor) have a conflict of interest that they are replaced by capable individuals such as, but not limited to, University Counsel or RIO.

#### **IV. Procedures**

The research misconduct proceeding starts when an allegation is made to an Institutional Official. The Preliminary Assessment is initiated to determine if the allegation has enough substance to move forward to an inquiry. If the allegation does have enough substance, the inquiry will be initiated. The inquiry stage is to determine if there is factual information that could lead to a finding of misconduct and require an investigation. The investigation stage is to determine if there is indeed misconduct and the degree of seriousness or no misconduct. Following the investigation a concluding report will be written that will state the findings of misconduct or no misconduct. This report will include a recommendation of the seriousness and will be sent to the VCRED for review and final determination.

##### **a. Reporting Research Misconduct**

- i. Anyone having reason to believe that a faculty member, staff, or student has engaged in research misconduct must report their allegations to an institutional official.
- ii. The initial allegations may be made anonymously but must include sufficient factual detail to permit a determination that further inquiry is warranted. A vague allegation that research misconduct is occurring or has occurred is insufficient. For example, the initial allegations should identify the person or persons who are believed to have engaged in misconduct, the time period during which such misconduct has occurred, the nature of the misconduct, and documentation (or where it can be found) or other evidence (including names of witnesses, if any) that can be consulted to verify the allegations.
- iii. The institutional official who receives the allegations must document in writing: the date and time of receipt, the name of the complainant (if the complainant agrees to be identified), the substance of the allegations, and any supporting documentation or evidence that is provided by the complainant.

iv. The institutional official must forward the documentation of allegations to the RIO as soon as possible. In no event can the documentation of allegations take longer than three working days after receipt.

b. The preliminary assessment of allegations of Research Misconduct

The purpose of the preliminary assessment of an allegation is to determine whether an inquiry into the allegation of research misconduct is appropriate.

i. The RIO shall complete the preliminary assessment promptly. If the preliminary assessment requires more than ten (10) days to complete, the RIO shall document and record the reasons, and complete the assessment as promptly thereafter as possible.

ii. The preliminary assessment shall be limited to determining:

1. Whether the complainant has alleged acts or omissions that fall within the definition of research misconduct;
2. Whether the relevant research or research-related activity is of the type covered by these Policy and Procedures; and
3. Whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

iii. If the answers to the preliminary assessment are affirmative the RIO shall refer the matter to an inquiry. Otherwise, all further proceedings shall terminate, and the RIO shall notify the complainant, the respondent, and such external agencies as may be required by applicable law or regulation, that no case exists for misconduct allegation.

iv. Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be identified. Disclosure of misconduct is limited to those who have a need to know in order to carry out a research misconduct proceeding. The University may be required by applicable law or regulation to disclose the identity of respondents and complainants to external agencies.

c. The Inquiry into allegations of Research Misconduct

i. The purpose of the inquiry is to determine whether there is sufficient substance to the allegation to warrant a formal investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible. All aspects of the inquiry must be completed within 60 days of its commencement. If the Inquiry Committee is unable to complete its work in 60 days, it shall request an extension in writing from the VCRED. If external agencies are involved the RIO may need to request an extension from the agency.

ii. Initiation of Inquiry Process

1. *Sequestration of records.* The RIO shall, on or before the date on which the respondent is notified or the inquiry begins, whichever is earlier, promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding. The records and evidence will be inventoried, and sequestered in a secure manner. 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.

2. *The Inquiry Committee.* The VCRED shall appoint the Inquiry Committee from a pool of institutional faculty/staff (see III B). The Inquiry Committee should consist of at least three individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation. The Committee shall interview the principals and key witnesses, with the option to tape record, and conduct the inquiry. The RIO shall take precautions to ensure that individuals responsible for carrying out any part of the research misconduct proceeding do not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses. If necessary, the VCRED will seek additional expertise for the Inquiry Committee that may advise the committee but will not vote or participate in interviews. The experts can be from inside or outside of UNCG.
3. *Notice to the Respondent.* At the time of or before beginning an inquiry, the RIO shall make a good faith effort to notify in writing the presumed respondent, if any, that an inquiry has begun or will begin; the procedures that will be followed; the membership of the Inquiry Committee; and the nature of the allegation of research misconduct. If the inquiry subsequently identifies additional respondents, the RIO must notify them.
4. *Objections to the Inquiry Committee Members.* The respondent has five days to challenge, in writing, the Inquiry Committee's membership based on bias or conflict of interest. The RIO will determine whether to replace the challenged member and so inform the respondent within five days of receipt of the challenge in writing.
5. *Confidentiality.* To the maximum extent possible, and within requirements of the law and regulations, the RIO must preserve confidentiality of all persons involved with the exception of sponsoring agencies notified of the misconduct proceedings where applicable.

6. *Immediate Notification of External Agencies.* If at any time the RIO or Inquiry Committee has reason to believe that extenuating circumstances exist, they shall immediately inform the VCRED, who shall notify the appropriate agency. Examples of such circumstances are listed below.

- a. The health or safety of the public is at risk, including an immediate need to protect human or animal participants
- b. Agency resources or interests are threatened
- c. Research activities should be suspended
- d. There is a reasonable indication of possible violations of civil or criminal law
- e. Federal action is required to protect the interests of those involved in the research misconduct proceeding
- f. There is reason to believe that the research misconduct proceeding may be made public prematurely, so that the agency may take appropriate steps to safeguard evidence and protect the rights of those involved
- g. The research community or public should be informed

iii. If the Committee concludes that the allegation warrants an investigation, it shall prepare a written report which summarizes all pertinent information including the determination and whether any other actions should be taken if an investigation is not recommended.

1. The RIO will provide the respondent with a copy of the draft inquiry report for their review and comment. Within 14 calendar days of their receipt of the draft report, the respondent will provide their comments, if any, to the Inquiry Committee.

2. If the Inquiry Committee determines that an investigation is not warranted, it shall prepare a sufficiently detailed documentation of the inquiry to inform a later assessment by third parties of the reasons for not conducting an Investigation.

iv. Notice of the results of the Inquiry

1. *Notice to the Respondent.* The RIO must notify the respondent whether the inquiry found that an investigation is warranted. The notice must include a copy of the Inquiry Report and a copy of or reference to these Policy and Procedures.

2. *Notice to the Complainant.* The RIO may notify the complainant who made the allegation whether the inquiry found that an investigation is warranted. The RIO may provide relevant portions of the Inquiry Report to the complainant for comment.

3. *Notice to Appropriate Agencies.* If an inquiry is terminated before its completion, a report of the planned termination, including the reasons for such an action,

should be made to those funding agencies that require it.

4. The Inquiry Committee will forward the Inquiry Report to the RIO, who shall notify any external agencies as may be required by applicable law or regulation.

d. The Investigation of Allegations of Research Misconduct.

i. *Purpose.* The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, to what extent, and make recommendation with respect to imposition of disciplinary sanctions. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. All aspects of the investigation must be completed within 120 days of its commencement. If the Investigation Committee is unable to complete the investigation in 120 days, it shall request an extension in writing from the VCRED. For Investigations that involve external agencies, the RIO may need to request an extension from the agency.

ii. Preliminary Matters

1. *The Investigation Committee.* The VCRED shall appoint the Investigation Committee. The Investigation Committee should consist of at least three individuals who have the necessary expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the investigation. The VCRED shall take precautions to ensure that individuals responsible for carrying out any part of the investigation do not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent(s), or witnesses. The VCRED may seek additional expertise for the Investigation Committee that will advise the Committee and will not vote or participate in interviews, if needed. The experts can be from inside or outside of UNCG.

2. *Notice of Commencement of the Investigation.* The RIO will notify the respondent(s) that an investigation is being undertaken. The RIO will inform them of the allegations that are under investigation, as well as of the composition of the Investigation Committee and the procedures that will be followed. If the investigation subsequently identifies additional respondents, the RIO must notify them.

3. *Objections to the Investigation Committee Members.* The respondent has five days to challenge, in writing, the committee's membership based on bias or conflict of interest. The VCRED will determine whether to replace the challenged member and so inform the respondent within five days of receipt of the challenge in writing.

iii. Conducting the Investigation.

1. *Confidentiality.* To the maximum extent possible, and within requirements of the law and regulations, the RIO must preserve confidentiality of all persons involved with the exception of sponsoring agencies notified of the misconduct proceedings.

2. *Interviewing Individuals.* The Investigation Committee may interview any

individual it identifies as having information or evidence relevant to the Committee's determinations, including, but not limited to, the complainant and the respondent. These interviews may be recorded.

3. *Pursuing Leads.* The Investigation Committee shall pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

4. *Immediate Notification of External Agencies.* If at any time the Investigation Committee has reason to believe that any of the following circumstances exist, it shall immediately inform the RIO, who shall notify the appropriate agency:

- a. The health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
- b. Agency resources or interests are threatened.
- c. Research activities should be suspended.
- d. there is a reasonable indication of possible violations of civil or criminal law.
- e. Federal action is required to protect the interests of those involved in the research misconduct Proceeding.
- f. There is reason to believe that the research misconduct Proceeding may be made public prematurely, so that agency may take appropriate steps to safeguard evidence and protect the rights of those involved.
- g. The research community or public should be informed.

5. *Burden of proof*

- a. The University bears the burden of proving that research misconduct occurred.
- b. The destruction, absence of, or respondent's failure to provide research records adequately documenting the questioned research shall be considered evidence of research misconduct, provided the University establishes by a preponderance of the evidence that:
  - i. The respondent intentionally, knowingly, or recklessly had research records and destroyed them,
  - ii. Had the opportunity to maintain the records but did not do so, or
  - iii. Maintained the records and failed to produce them in a timely manner, or
  - iv. The respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.
- c. The respondent has the burden of going forward with and the burden

of proving, by a preponderance of the evidence, any and all affirmative defenses raised. In determining whether the University has carried the burden of proof, the Investigation Committee shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the respondent.

d. The respondent has the burden of going forward with and proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose administrative sanctions following a research misconduct proceeding.

iv. Concluding the Investigation.

1. Upon the conclusion of the Investigation, the Investigation Committee shall prepare, in writing, a final Investigation Report for the VCRED that shall:

a. Describe the nature of the allegations of research misconduct;

b. If applicable, describe and document the support, including, for example, any grant numbers, grant applications, contracts, and publications listing such support;

c. Describe the specific allegations of research misconduct for consideration in the investigation;

d. Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed;

e. For each separate allegation of research misconduct identified during the Investigation, provide a finding as to whether research misconduct did or did not occur, and if so:

i. Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or reckless;

ii. Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent;

iii. If applicable, identify the specific external agency support;

iv. Identify whether any publications need correction or retraction;

v. Identify the person(s) responsible for the misconduct; and

vi. List any current support or known applications or proposals for support that the respondent has pending with external agencies

2. If the majority of the committee finds that the individual has violated this policy, it shall recommend, in writing, an appropriate course of action to the VCRED, which may include appropriate sanctions and which shall include

adequate steps to ensure that the institution meets its obligations, if any, to third parties affected by the violation, including co-investigators and co-authors, funding agencies and other research sponsors, professional journals, and relevant clients. Any individual that does not agree with the majority can record their comments in a minority report that will be filed with the official proceeding records.

3. The respondent and complainant shall have an opportunity to review the draft Investigation Report and to provide written comments, which the Investigation Committee shall consider and include in the final Investigation Report. The respondent shall have thirty (30) calendar days to submit written comments on the draft of the Investigation Report. The findings of the final report should take into account the respondent's comments in addition to all the other evidence.

## **V. Post-Investigation Proceedings**

- a. Investigation concludes no research misconduct occurred.
  - i. The University shall make all reasonable and practical efforts, if requested and as appropriate, to protect or restore the reputation of any respondent determined by the Investigation Committee to have not been engaged in research misconduct.
  - ii. The University shall make all reasonable and practical efforts to protect or restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against them.
  - iii. If the investigation concludes research misconduct occurred, the violation may be addressed in various ways as stated in VI.

## **VI. Administrative and Disciplinary Actions**

- a. *Seriousness of the Misconduct.* In deciding what administrative or disciplinary actions are appropriate, the VCRED should consider the seriousness of the misconduct, including, but not limited to, the degree to which the misconduct was knowing, intentional, or reckless; was an isolated event or part of a pattern; or had significant impact on the research record, research subjects, other researchers, institutions, or the public welfare.
- b. *Possible Administrative and Disciplinary Actions.* Administrative and disciplinary actions are not limited to but include: appropriate steps to correct the research record; letters of reprimand; the imposition of special certification or assurance requirements to ensure compliance with applicable regulations or terms of an award; suspension or termination of an active award; written warning; demotion; suspension; salary reduction; dismissal; or other serious discipline according to the appropriate policies applicable to students, faculty or staff. With respect to administrative actions or discipline imposed upon employees, the institution or entity must comply with all relevant personnel policies and laws. With respect to administrative actions or discipline imposed upon students, the institution or entity must comply with all relevant student policies and codes.
- c. *Criminal or Civil Fraud Violations* If the institution or entity believes that criminal or civil fraud violations may have occurred, the VCRED shall promptly refer the matter to the appropriate investigative body.

- i. *Respondent is a faculty member.* In the case of a faculty member, the VCRED together with the Provost and appropriate Dean(s) will determine what administrative and disciplinary sanctions to implement. The VCRED shall document the recommended sanction(s) and forward it to the Chair(s) of the respondent's department(s).
- ii. *Respondent is EPA non-faculty or SPA exempt.* In the case of EPA non-faculty or SPA exempt, the RIO together with University Counsel and the appropriate supervisor will determine what administrative and disciplinary sanctions to implement. The RIO shall document the recommended sanction(s) and forward it to the direct supervisor(s) of the respondent's department(s)/unit(s).
- iii. *Respondent is a staff employee.* The VCRED shall refer the Investigation Report to the Unit Head of respondent's department, for appropriate administrative action, up to and including the imposition of discipline.
- iv. *Respondent is a student.* If, in the case of students, the Investigation Committee makes a finding of research misconduct, the VCRED shall refer the Investigation Report to the Administrative Coordinator for Academic Integrity, for appropriate administrative action, up to and including the imposition of discipline.