

Policy on Research Misconduct
(Adopted 12/28/89, Revised 4/13/92; 2/26/96)

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PREFACE

1. This policy statement represents the University of Scranton's commitment to ensuring adherence to appropriate standards in the conduct of research by its faculty, staff, and students. Primary responsibility for adherence to standards rests with the individual researcher. However, the University has an interest in seeing that certain minimal conditions are met in this sphere of activity.
2. This policy statement is formulated to comply with current federal regulations, e.g., from the Public Health Service (PHS) and the National Science Foundation (NSF), regarding scientific misconduct. However, this policy applies to all research conducted by members of the University community under any circumstances and is not restricted to externally funded research. All researchers should be aware that no actions taken by the University in response to allegations of misconduct preclude inquiry, investigation, or disciplinary action by a federal agency. Copies of the misconduct regulations of NSF and PHS are available at the Office of Research Services.
3. This policy statement is based upon and guided by general principles enunciated in the Framework for Institutional Policies and Procedures to Deal with Fraud in Research (November 4, 1988) developed by the Association of American Universities (AAU), the National Association of State Universities and Land-Grant Colleges (NASULGC), and the Council of Graduate Schools (CGS). In some instances, wording has been taken directly from these guidelines in formulating the University's policy statement.
4. As emphasized in the document referred to in point 3, every reasonable attempt will be made in implementing the policy set forth herein to maintain confidentiality and to protect the researchers and persons making good-faith claims of research misconduct as defined below. Further, any inquiry or investigation should be conducted in as expeditious a manner as is compatible with the case being considered.
5. The University will undertake diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed, and will also undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations. TO TOP

DEFINITION OF MISCONDUCT

Members of the University community are expected to adhere to the highest standards of their respective fields in the conduct and reporting of research. This policy statement is aimed only at certain egregious violations of accepted practices in the conduct and reporting of research widely applicable across fields and broadly accepted in the research community as not only inappropriate but clearly unacceptable.

For purposes of this policy, *misconduct* is defined as follows:

1. 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 judgment of data.
2. Misappropriation of others' ideas, i.e., the unauthorized use of privileged information (such as violation of confidentiality in peer review), however obtained.
3. Failure to meet University and/or federal policies regarding use of human or animal subjects in research.
4. Failure to meet legal requirements governing research.
5. Retaliation of any kind against a person who has reported or provided information about suspected or alleged misconduct and who has not acted in bad faith.

REVIEW PROCEDURE

This part of the policy identifies procedures to be followed when there is an allegation of research misconduct, as defined above. The review procedure identifies the steps to be followed and the parties involved when an allegation is made. TO TOP

Inquiry

An inquiry is initiated whenever a specific allegation is made in writing that misconduct occurred at the University. The written allegation should be presented to the Director of Research, who will serve as the University's misconduct officer.

If the research in question is funded by a federal agency, that agency will be notified of all actions and outcomes in accordance with its policies, guidelines, or rules regarding misconduct. Additionally, the University will notify the appropriate federal agency if it ascertains at any stage of the inquiry or investigation that any of the following conditions exists:

1. there is an immediate health hazard involved;
2. there is an immediate need to protect Federal funds or equipment;
3. there is an immediate need to protect the interest of the person(s) making the allegations or of the individual(s) who is the subject of the allegation as well as his/her co-investigators and associates, if any;
4. it is probable that the alleged incident is going to be reported publicly; or
5. there is a reasonable indication of possible criminal violation (in this instance, the federal agency will be informed within 24 hours).

During an inquiry or investigation, the University will take interim administrative actions, as appropriate, to protect Federal funds and insure that the purposes of the Federal financial assistance are being carried out.

An inquiry will be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. A written report shall be prepared that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusion of the inquiry. The individual(s) against whom the allegation was made shall be given a copy of the report of the inquiry. If they comment on that report, their comments will be made part of the record. If the inquiry takes longer than 60 days to complete, the record of the inquiry shall include documentation of the reasons for exceeding the 60-day period.

The University will maintain sufficiently detailed documentation of inquiries to permit a later assessment of the reasons for determining that an investigation was not warranted, if necessary. Such records shall be maintained in a secure manner for a period of at least three years after the termination of the inquiry, and shall, upon request, be provided to authorized Federal personnel. In the event that the institution decides to terminate an inquiry or investigation for any reason without completing all relevant Federal requirements (e.g. the requirements of section 50.103 (d) of 42 CFR Part 50, Subpart A), a report of such planned termination, including a description of the reasons for such termination, shall be made to the appropriate Federal office, which will then decide whether further investigation should be undertaken.

The Director of Research will determine whether a formal "investigation" as defined below is warranted. In doing so, the Director of Research is expected to use normal prudence in determining whether the allegation is frivolous, can be handled through simple corrective action using ordinary University procedures, or warrants more detailed pursuit. When the latter is the case, the Director of Research shall (a) involve at a minimum one other member of the Research Committee with appropriate experience and background, (b) notify in writing the Provost, the researcher, and the researcher's undergraduate Dean that an allegation has been made, and (c) notify in writing the Provost, the researcher, and the researcher's Dean about the disposition of the case, i.e., whether an investigation is warranted or the case has been otherwise resolved. Where simple corrective action is found adequate, the Director of Research will confirm this disposition of the case in writing to the researcher.

If an unsigned allegation is made, the University still bears responsibility for follow-up. In such a case, three members of the Research Committee will recommend, by majority action, whether or not an investigation is warranted; in this case, if an investigation is called for, these three members of the Research Committee shall not participate in the investigation stage.

Investigation

A formal investigation is warranted if there is reasonable basis for believing that research misconduct, as defined herein, has occurred and could not be remedied by some simple corrective action with the researcher involved.

An investigation should ordinarily be completed within 120 days of its initiation. This includes conducting the investigation, preparing the report of findings, making that report available for comment by the subjects of the investigation, and submission of the report to federal agencies, as appropriate (see below). The investigation will be initiated upon notification of the researcher that an investigation is being conducted, as per (a) below.

If the University determines that it will not be able to complete the investigation in 120 days, it will submit to the appropriate Federal agency a written request for an extension and an explanation for the delay that includes an interim report on the progress to date, an outline of what remains to be done, and an estimated date of completion of the report. Any consideration for an extension must balance the need for a thorough and rigorous examination of the facts versus the interests of the subject(s) of the investigation and the Federal agency in a timely resolution of the matter. If the request is granted, the University will file periodic progress reports as requested by the Federal agency. If satisfactory progress is not made in the University's investigation, the Federal agency may undertake an investigation of its own.

If an investigation is warranted, the Research Committee will conduct the investigation, unless the case involves violation of policies regarding human or animal subjects, where the Institutional Review Board for the Protection of Human Subjects (IRB) or Institutional Animal Care and Use Committee (IACUC), respectively, shall be the investigative group, and shall follow the same rules for proceeding as specified for the Research Committee.

If an investigation is warranted, the chairs of the Faculty Affairs Council (FAC) and the Faculty Personnel Committee (FPC) shall be so informed by the Director of Research. In order to draw upon additional expertise related to a particular discipline, the Research Committee may call upon other individuals (including persons outside the University) to assist in the investigation.

No determination that research misconduct has been committed shall be made until the researcher against whom the charge is made is:

1. served by certified mail (return receipt requested) with a copy of the specific charges filed against him/her;
2. provided with an opportunity to respond to the charges in writing no later than twenty (20) days after receipt by him/her of the allegations of research misconduct, with such response to be made to the University's misconduct officer (the Director of Research);

3. provided with an opportunity for a hearing before the misconduct officer or his/her designee.

The hearing to be held shall be stenographically recorded. The misconduct officer shall preside at such hearing. Both the party bringing the allegation of research misconduct and the researcher who has been so charged shall be entitled to be heard, to bring witnesses, if necessary, and to submit whatever documentary, demonstrative or tangible evidence each wishes to submit for consideration on the issue of research misconduct. Legal counsel or attorneys for any party will not be permitted in the room during the hearing.

The misconduct officer shall have the authority to issue whatever orders governing such hearings as are necessary to preserve the confidentiality of the scientific and research information, documentation and other evidence which may be presented by the parties in the course of such hearing. This authority shall include, where necessary, the authority to sequester witnesses, close the hearing to other University personnel and the public at large and to seal written documents to prevent public disclosure, with the exception that, if the accused is a faculty member, he or she may keep the Chair of FAC apprised of the progress of the investigation and hearing. The Chair of FAC will protect, to the maximum extent possible, the confidentiality of any information he or she receives regarding the investigation and hearing.

The misconduct officer shall also have the authority to designate a panel of three individuals having recognized expertise in the area or discipline wherein the allegation of research misconduct is alleged to have been committed to aid in the determination of the validity of the allegations raised against the researcher. Such experts need not be associated with the University but their credentials must be made known to both the party bringing the charges of research misconduct and the party so charged.

The party raising the allegation of research misconduct shall have the burden of proof in any proceeding conducted pursuant to this policy. Any oral or documentary evidence may be received, but the University, by its misconduct officer, may provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence.

The transcript of testimony and exhibits, together with all documents filed in the hearing, shall constitute the exclusive record for a decision by the misconduct officer and thereafter by the University Provost.

Findings

The Research Committee (or IRB or IACUC) completes its investigation by filing with the Director of Research a report of findings which indicates whether or not research misconduct has occurred, the basis for the determination, and recommendations regarding corrective actions which should be taken if misconduct has occurred. A report of the findings shall be given to the researcher(s), the Provost, and the external agency

funding the project (if any). The findings report should also contain recommendations regarding appropriate disciplinary action. Possible disciplinary actions can range from warnings against similar misconduct in the future to the actual dismissal of the individual from the University. The disciplinary action will be determined by the Provost after consideration of recommendations made by the Research Committee.

A determination of disciplinary action, if any, shall be made by the Provost and the researcher so notified in writing within 14 days (two weeks) of the date the Provost receives the report of findings, if practicable. The report of findings shall be maintained and made available to authorized representatives of Federal agencies, if applicable, which may decide to proceed with their own investigation or act on the University's findings.

Appeal

An appeal of the findings report may be made by the researcher to the Provost. An appeal (if made) of the Provost's disposition of the case must be filed within 14 days (two weeks) of the date of the Provost's notification. The determination of the Provost regarding the appeal is final, including adoption of any disciplinary action, if warranted. The Provost shall sustain the findings of the Research Committee (or IRB or IACUC) if there is substantial, competent evidence in the record to support such findings.

With respect to faculty members covered by the Collective Bargaining Agreement between the Faculty Affairs Council and the University of Scranton, it is understood that any disciplinary action, including termination, imposed by the University of Scranton pursuant to this research misconduct policy, if challenged by the researcher disciplined or terminated, shall be so challenged exclusively through the grievance-arbitration procedure of the Collective Bargaining Agreement.

If either the chair of FAC or chair of FPC is directly involved in any aspect of an investigation of scientific misconduct, then the chair(s) involved shall be replaced by other members of FAC or FPC, respectively, for purposes of handling any grievances which may arise hereunder.