



Scholarly Misconduct Policy

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Office of the Vice President for Research
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Policy and Procedures regarding Responsible Conduct in Scholarly Activities at the State University of New York at Stony Brook

Note: This policy and procedure document borrows heavily from the Association of American Medical College's publication 'Beyond the Framework: Institutional Considerations in Managing Allegations of Misconduct in Research', University at Buffalo's 'Policy of Responsible Conduct in Intellectual and Creative Activity, as well as the federal regulations describing NIH (42 CFR 50) and NSF (45 CFR 689) policies and procedures on Scientific Misconduct.

1. Policy:

This document is applicable to all University faculty, staff, and students engaged in scholarly activities (funded or unfunded) using University facilities, the facilities of another institution, or any other off-campus site. This document also applies to visitors and users of the campus or off-campus University facilities.

The State University of New York at Stony Brook is committed to excellence in all scholarly endeavors. Individuals must adhere to the highest professional standards of scientific integrity in planning, conducting and reporting the results of scholarly activities conducted under the auspices of this Institution.

The University will thoroughly investigate, in a fair and timely manner, all allegations brought forward in which it is believed that an individual or individuals are not meeting the standards of integrity required in the conduct of scholarly activities.

Scholarly misconduct is defined as:

- 1) Fabrication, falsification, plagiarism, or other serious deviation from accepted practices in proposing, carrying out, or reporting results of scholarly activities; and
- 2) Retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith. This definition is not meant to include actions involving honest error or honest differences in interpretations or judgments of data.

2. Procedure for Handling Allegations of Misconduct

2.1 Allegation Filing

Allegations of scholarly misconduct must be presented in writing by an individual or individuals ('Reporting Party'), to the Vice President for Research. In cases where the Vice President for Research has a conflict of interest, or the appearance thereof, the allegation will be referred by him/her to an administrator designated by the Provost. The Provost's designee will then act in the place of the Vice President for Research under this policy. Depending on the nature of the complaint (for example, plagiarism), or the availability of substantiating evidence, an allegation can be presented anonymously. Whether or not anonymity can be guaranteed throughout the entire allegation/pre-inquiry/inquiry/investigation process depends on the nature of the allegation.

Counter-allegations by the Investigated Party may be considered separately or singly, depending on whether or not the counter-allegations pertain to the same matter in question. Allegations should contain, at least, the identity of the person(s) who has committed the misconduct ('Investigated Party'), the nature of the misconduct, when and in what manner the misconduct occurred or continues to occur, and should indicate, if possible, the nature, location, and availability of evidence of the alleged misconduct.

2.2 Pre-Inquiry Review

The Vice President for Research will review the allegation for applicability to the definition of Scholarly Misconduct as presented above, and will assess involvement of federal funding in the activity in question. The review should be completed with 2 weeks of receipt of the allegation.

If determination is made that the allegation fits the definition of misconduct, the Reporting and Investigated Parties will be formally notified in writing by the Vice President for Research that an Inquiry is about to commence. The exact nature of the allegation, the University Policy and Procedure on Scholarly Misconduct, and the right to consult with legal counsel will be presented in that correspondence. The Investigated Party will be invited to make a written response to the allegation(s).

2.3 Inquiry

Definition: Information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

The Inquiry Process must start within 2 weeks of the pre-inquiry decision, and must be completed within 60 days from its initiation. If the inquiry takes longer than 60 days to complete, the Inquiry report must include documentation of the reasons for exceeding the 60 day period. Section 2.6 shall be reviewed in cases involving federal funding. When, in the course of an inquiry, it is determined that there is an immediate need to protect federal funds or equipment, the Office of the Vice President for Research shall insure that the expenditure of sponsored funds by the investigated party is appropriate.

Confidentiality will be maintained, to the extent practicable, at this stage of the investigation.

The President will be notified regarding the allegation and the decision to proceed to the inquiry stage. The Vice President for Research or his/her designee, with the assistance of three or more appropriate, impartial experts, shall be responsible for the following:

- a) Securing and reviewing data and pertinent materials from all involved parties, who are expected to cooperate in a timely manner to requests for documents or information or both.
- b) Securing and reviewing the Investigated Party's written response to the allegation, if provided. The Inquiry report will be submitted to the President, and shall contain the following:
 - 1) a statement of the original allegation,
 - 2) a statement of how the inquiry was conducted,
 - 3) a summary of the findings and basis for the determination as to whether the charges warrant an investigation,
 - 4) a summary of the interviews conducted
 - 5) recommendations for action.

The Vice President for Research, will securely retain the original report for a minimum of 3 years. This report is subject to review by Office of Research Integrity (ORI) and National Science Foundation's Office of the Inspector General (OIG), if applicable. Copies of the report will be made available to the Investigated and Reporting Parties, if requested.

The President shall determine, on the basis of the Inquiry report, whether the allegations warrant a formal investigation. The basis for the decision must be fully documented. The President shall communicate the findings of the inquiry to the Vice President for Research, who, in turn shall notify the Reporting Party, and the Investigated Party. The Investigated party will be given the opportunity to comment on the inquiry report, and those comments will be made part of the record.

In the situation where the President determines that an investigation is not warranted, every effort will be made to clear individuals of unsupported allegations, restore any damaged reputations, and protect those who, in good faith, made allegations.

2.4. Investigation

Definition: Formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

The investigation must commence within 30 days of completion of the inquiry, and must be completed (i.e., final report completed) within 120 days from commencement. A request for extension must be filed by the Vice President for Research to the President. Section 2.6 shall be reviewed in cases of involvement of federal funding. Comments made by the Investigated Party must be considered during the investigation.

Prompt notification by the President to the ORI or the OIG is required if the allegation is related to research (and in the case of NSF, other activities) that they sponsor and a determination has been made to proceed with a formal investigation.

Confidentiality will be maintained, to the extent practicable, at this stage of the investigation.

The Vice President for Research or his/her designee will chair the Investigative Committee, which will additionally comprise at least three impartial members with appropriate expertise to evaluate the allegations. The Reporting Party and the Investigated Party will be informed of the Committee's composition, and be given an opportunity to comment on its membership.

- a) The Committee will be given access to any additional remaining materials it requests and requires to complete its investigation. Timely cooperation is expected by any individual approached for such materials.
- b) Interviews by the Committee of the Reporting Party, Investigated Party, other witnesses may be conducted.
- c) During the investigation, appropriate documentation will be maintained. Such documentation will be treated confidentially, except as required by law.

The Vice President for Research shall submit the Committee's report of the results of the investigation to the President. This report will be signed by all members and forwarded to the President. Presidential sign-off indicates acceptance of the report's conclusion. The report is sent to ORI, if applicable. These agencies may opt either to act on the findings provided by the institution, or, to proceed with their own investigation. Included in this report shall be the following:

- a) Clear identification of the allegations and involved individuals (Reporting Party, Investigated Party, Investigative Committee, other individuals interviewed.)
- b) Presentation of the evidence including sources, and procedures used for obtaining evidence
- c) Recommendation concerning decision of scholarly misconduct:

A recommendation of misconduct will be delivered by the Investigative Committee if the findings from the investigation are supported by a preponderance of the evidence, i.e., a simple majority of the evidence weighs in favor of the decision of scholarly misconduct. A vote is taken to certify that a preponderance of evidence exists, with the majority vote prevailing. If the vote is less than unanimous,

minority reports, providing views of the members who dissent from the majority opinion, will become part of the Investigative Committee's report.

The Reporting and Investigated parties will have an opportunity to review and comment on the report.

Final determination of misconduct will be made by the President, following review of the investigation report. This determination will be forwarded in writing to the Vice President for Research, who in turn, will forward it to the Reporting and Investigated Parties, and to ORI or OIG, if applicable.

Every effort will be made to clear individuals of unsupported allegations, restore any damaged reputations, and protect those who, in good faith, made allegations.

2.5. Sanctions

There must be a logical correspondence between the nature/severity of the proven allegations and the sanctions imposed. A recommendation of particular sanctions may be made by the Investigative Committee to the President, who will make the final determination. Disciplinary action must be considered in accordance with collective bargaining agreements or student conduct code.

2.6. Additional Information Pertaining to Involvement of PHS and NSF Funding

NIH:

ORI has the right to perform its own investigation at any time prior to, during, or following an institution's investigation. It can place sanctions on the individual or the institution or both, or place sanctions in addition to those instituted by the University.

If the research activity involvement is supported by PHS funds, the President will be required to file a report with the Office of Research Integrity

- 1) on or before the date that an investigation is begun,
- 2) at the time when, during the course of the investigation, facts are disclosed that may affect current or potential DHHS funding for the individual(s) under investigation or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest
- 3) once the outcome of an investigation is finalized. The final report must be submitted to ORI within 120 days of the commencement of the investigation. ORI will review the final report and supporting materials (including a description of sanctions taken by the Institution) to determine if the investigation was performed in a timely manner and with sufficient objectivity. ORI can request clarification or additional information or it can commence an investigation or both
- 4) if the determination is made to terminate an inquiry or investigation for any reason. A description of the reasons for such termination must be submitted to ORI, which will then decide whether further investigation should be undertaken
- 5) if the institution must request an extension to the 120 day investigation requirement. An interim progress report must be included along with an explanation for the need of extension, and estimated date of completion. Based on this information, ORI will grant the extension, or initiate an investigation on its own (if sufficient progress has not been made, for example)

6) if, at any stage in the inquiry or investigation process, it is determined that

- (a) there is an immediate health hazard involved
- (b) there is an immediate need to protect Federal Funds or equipment
- (c) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any
- (d) it is probable that the alleged incident is going to be reported publicly
- (e) there is reasonable indication of possible criminal violations (report must be made within 24 hours in this case).

NSF:

The Office of the Inspector General (OIG) oversees and coordinates NSF activities related to misconduct.

NSF will take appropriate action against individuals or institutions upon a determination that misconduct has occurred in proposing, carrying out, or reporting results from activities funded by NSF. It may also take interim action during an investigation (see 45 CSF 689.2 for possible actions).

In most instances, NSF will rely on the institution to conduct the inquiry and investigation as described in this policy/procedure document. If the institution wishes NSF to defer conducting its own inquiry and investigation on the matter in question, NSF requires

- 1) immediate notification if an initial inquiry supports a formal investigation
- 2) updates throughout investigations
- 3) notification prior to decision to conduct an investigation if
 - (a) the seriousness of apparent misconduct warrants
 - (b) if immediate health hazards are involved
 - (c) if NSF's resources, reputation, or other interests need protecting
 - (d) if federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected, or
 - (e) if the scientific community or the public should be informed.
- 4) submission of the final report from any investigation. OIG will assess the accuracy and completeness of the report and whether the investigating entity followed reasonable procedures. It will either adopt the findings in part or in whole, or, normally within 30 days, initiate a new investigation.
- 5) periodic status reports of the inquiry stage take longer than 90 days, or if the investigation takes longer than 180 days (at which point, NSF may commence with its own investigation)

OIG may initiate its own inquiry, or contact the institution to encourage the initiation of an inquiry if alleged misconduct is brought to its attention by means other than via reporting from the institution.

If NSF conducts a formal investigation, prompt written notice will be made to the individual or institutions to be investigated, unless notice would prejudice the investigation, or unless a criminal investigation is underway or under active consideration. In the case of consideration of a criminal investigation by the Department of Justice, FBI etc., the OIG will determine what information may be disclosed to the subject of the investigation.

Specific procedures pertaining to inquiries, investigations and appeals are available in the NSF regulations on the matter, 45 CFR 689.