Policy on Misconduct in Research and Creative Activity

Purpose: This policy is a policy for describing the procedures related to investigating and reporting instances of alleged or apparent misconduct in research and creative activity. This policy is also intended to conform to the requirements of the United States Department of Health and Human Services (“HHS”), the U.S. Public Health Service (“PHS”), the National Science Foundation (“NSF”) and Federal regulations including, but not limited to, the “Public Health Service Policies on Research Misconduct: Responsibilities of Public Health Service Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science” [42 CFR (Code of Federal Regulations) Part 9350, Subpart A] and the “National Science Foundation regulations on Misconduct in Science and Engineering Research” [45 CFR, Part 689].

Background: California State University Channel Islands adheres to and promotes the highest standards of conduct in RSCA. Misconduct in RSCA is antithetical to the values the university strives to maintain and promote, and strikes at the heart of the scholarly and educational enterprise. A shared understanding of expectations and responsibilities is, therefore, critical — not only to the quality of the RSCA enterprise but also to the collegial life of this community. This is a new policy.

Applicability: This policy applies to all university administrators, faculty, staff and students.

Policy:

I. Purpose

It is the policy of California State University Channel Islands to adhere to and promote the highest standards of conduct in research and creative activity. Therefore it issues this policy for investigating and reporting instances of alleged or apparent misconduct in research and creative activity. This policy is also intended to conform to the requirements of the United States Department of Health and Human Services (“HHS”), the U.S. Public Health Service (“PHS”), the National Science Foundation (“NSF”) and Federal regulations including, but not limited to, the “Responsibilities of Public Health Service Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science” [42 CFR (Code of Federal Regulations) Part 50, Subpart A] and the “National Science Foundation regulations on Misconduct in Science and Engineering Research” [45 CFR, Part 689].

II. Definition
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Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

(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 words without giving appropriate credit.
(d) Research misconduct does not include honest error or differences of opinion.

“Misconduct” or “misconduct in scientific research” is defined as it is in 42 CFR, Part 50, Subpart A, see 50.102 to mean: fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the academic community for proposing, conducting, or reporting research and creative activity. Misconduct does not include honest error or honest differences in interpretations of data. In accordance with 45 CFR, Part 689, sec. 689.1 these terms shall also include retaliation of any kind against an individual who in good faith reported or provided information about suspected or alleged misconduct.

III. Responsibility

The Associate Vice President for Director of Research and Sponsored Programs (RSP) shall be responsible for (1) filing required annual assurances with agencies funding research as well as aggregated information on allegations, inquiries, and investigations, (2) informing and cooperating with funding agencies as set forth below, or as otherwise required by law, (3) maintaining appropriate policies and procedures relating to procedures and the importance of compliance with these policies and procedures, (4) informing University faculty and administrative staff of these policies, (5) taking immediate and appropriate action as soon as misconduct on the part of employees or individuals within the University’s control is suspected or alleged, and (6) directing the maintenance of and access to documents, evidence, reports, and any other materials generated in the course of or due to an allegation, inquiry, or investigation of misconduct. On behalf of the University, the Associate Vice President for Director of Research and Sponsored Programs (RSP) shall also be responsible for notifying the United States Office of Scientific Research Integrity (“ORSI”) and the NSF if it is ascertained at any stage of an inquiry or investigation that any of the following conditions exist:

(a) Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
(b) HHS resources or interests are threatened.
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(c) Research activities should be suspended.
(d) There is 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) The research institution believes the research misconduct proceeding may be made public prematurely so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.
(g) The research community or public should be informed.

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 interests of the individual making the allegations or of the individual who is the subject of the allegations 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.
5. There is a reasonable indication of possible criminal violation. In this instance the University will inform the OSI within 24 hours of obtaining that information [42 CFR, Part 50, section 50.104], and will provide funding agencies with interim reports as required by law or upon request.

II. Allegations of Misconduct in Research
Any individual who believes an act of research misconduct has occurred or is occurring should notify the dean of the appropriate department or Director of RSP. Upon receipt of an allegation of research misconduct in research or creative activity, the department Director of RSP shall assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified, whether it is within the jurisdictional criteria of 42 CFR § 93.102(b), and whether the allegation falls within the definition of research misconduct in 42 CFR § 93.103. An inquiry must be conducted if these criteria are met. The Director of RSP shall also inform the Dean, the Associate Vice President for Faculty Affairs, the Associate Vice President for Research and Sponsored Programs, the Provost, the individual or individuals against whom the allegation has been made, and all appropriate agencies or law enforcement authorities. The department Dean shall reduce to writing any oral allegation of misconduct and seek approval as to its content from the individual making the allegation. A copy of the written allegation together with a copy of this policy statement should be made available to the individual against whom an allegation is asserted. That individual shall have 15 working days from the time of notification that an allegation has been received to prepare a formal written response.
IV. The Inquiry
The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation. At the time of or before beginning an inquiry, the Director of RSP must make a good faith effort to notify the respondent in writing, if the respondent is known. Upon receipt of an allegation of misconduct, the appropriate dean shall immediately begin an inquiry into the allegation. The inquiry must include gathering information and initial fact finding to determine whether an allegation or apparent instance of misconduct warrants an investigation. The inquiry may be conducted by the department dean, a qualified panel or committee, or by such other arrangements that have the approval of the Associate Vice President for Director of Research and Sponsored Programs. The inquiry committee will normally interview the complainant, the respondent, and key witnesses as well as examining relevant research records and materials. Then the inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the Director of RSP, the committee members will decide whether an investigation is warranted based on the criteria in this policy and 42 CFR § 93.307(d). The inquiry and submission of the inquiry report must be completed within 60 days of its initiation unless circumstances clearly warrant a longer period.
A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the PHS support, including, for example, grant numbers, grant applications, contracts and publications listing PHS support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant. Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the Director of RSP and the inquiry committee. A written inquiry report shall be prepared that states the substance of the allegation, describes the evidence that was reviewed, summarizes relevant interviews (in most cases to include the individual who raised the allegation), and sets forth conclusions of the inquiry, especially whether there is sufficient reason to conduct a formal investigation. The RIO shall notify the respondent whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment within 10 days, and include a copy of or refer to 42 CFR Part 93 and the institution’s policies and procedures on research misconduct. Any comments that are submitted by the respondent or complainant will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the Director of RSP. The individual against whom the allegation was made shall be given a copy of the report of inquiry and
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invited to comment upon it. If a written comment to the report is submitted in a timely manner, the comment shall be made a part of the final inquiry report. If the inquiry takes longer than 60 days to complete, the record of the inquiry shall include documentation of the reason for exceeding the 60-day period.

The final inquiry report shall be provided to the Associate Vice President for Research and Sponsored Programs for review, who will report the findings to the Associate Vice President for Faculty Affairs, and to the Provost. Within 30 calendar days of the decision that an investigation is warranted, the Director of RSP will provide ORI with a copy of the inquiry report.

If an investigation is not warranted, the Director of RSP shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by ORI of the reasons why an investigation was not conducted. These documents must be provided to ORI or other authorized HHS personnel upon request. If in the opinion of the Associate Vice President for Research and Sponsored Programs the inquiry is not satisfactory in its information gathering or fact finding, additional inquiry may be requested. If the inquiry is considered satisfactory and reaches the conclusion that a more formal investigation is not warranted, that decision is final.

Sufficiently detailed documentation of the inquiry, to permit a later assessment of the reasons for determining that an investigation was not warranted, shall be maintained for a period of at least three years after the termination of the inquiry and shall, upon request, be provided to the HHS, or others as required by law.

VI. Conducting the Investigation Following Inquiry

The investigation must begin within 30 calendar days after the determination that an investigation is warranted. 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 there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice.

Under 42 CFR § 93.313 the findings of the investigation must be set forth in an investigation report. If the inquiry results in a recommendation for a more formal investigation it should be guided by the considerations set forth below. If the research at issue involves funds from the PHS or NSF, on or before the commencement of the investigation, the University will notify in writing the OSI, and NSF of the pending investigation. In the case of PHS-funded research this notice must include the name of the accused individual, the specific nature of the allegation, and the PHS proposal or
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award number involved. The Associate Vice President for Research and Sponsored Programs will On or before the date on which the investigation begins, the Director of RSP must: (1) notify the ORI Director of the decision to begin the investigation and provide ORI a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. Keep the appropriate funding agencies informed during the investigation, and specifically apprise OSI of any developments during the course of the investigation which disclose facts that may affect current or potential HHS funding for the individual under investigation or that the PHS needs to know to ensure appropriate use of Federal funds or otherwise protect the public interest.

A. Appointment of the Investigation Committee
Thirty days to begin investigation
The Director of RSP, in consultation with other institutional officials as appropriate, will appoint an investigation committee and the committee chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of individuals who do not have 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. Individuals appointed to the investigation committee may also have served on the inquiry committee. An investigation is the formal examination and evaluation of all relevant facts to determine if misconduct has occurred. An investigation following inquiry must be undertaken within 30 days of the completion of the inquiry. It will normally include examination of all documentation, including but not limited to, relevant research data and proposals, publications, correspondence, and memoranda of telephone calls. Whenever possible all individuals involved in either making the allegation or against whom the allegation is made should be interviewed, as well as other individuals who might have information regarding key aspects of the allegation. Summaries of interviews should be prepared and provided to the interviewees for comment or revision, and these comments should be included as part of the investigation report. The individual who raised the allegation should be given a copy of the portions of the report that address their role and opinions and invited to comment upon it. If a written comment to the report is submitted in a timely manner, the comment shall be made a part of the final investigation report.

B. Ninety Investigation Process days to complete investigation report
The investigation committee and the Director of RSP must:

- Use diligent efforts to ensure that the investigation is thorough and sufficiently documented
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and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation:

- Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
- 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
- Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to ORI. However, if the Director of RSP determines that the investigation will not be completed within this 120-day period, he/she will submit to ORI a written request for an extension, setting forth the reasons for the delay. The Director of RSP will ensure that periodic progress reports are filed with ORI, if ORI grants the request for an extension and directs the filing of such reports. The investigation report should be completed within 90 days of initiation of the investigation to allow time for a determination of sanctions, if any, and finalization of the report within 120 days. Within 90 days of initiation of the investigation, the investigation report should be submitted to the Associate Vice President for Research and Sponsored Programs and a copy provided to the individual investigated. Such individual may submit a written response to the report within 20 days of receipt, or longer at the discretion of the Associate Vice President for Research and Sponsored Programs. The written response shall be appended to the final investigation report. The Associate Vice President for Research and Sponsored Programs shall make recommendations for corrective measures and disciplinary action, if any, and report these to the Associate Vice President for Faculty Affairs and to the Provost. Any sanctions taken by the University as a result of the allegation of misconduct shall be included in the final report.

C. The Investigation Report
OSI investigation deadlines and reporting requirements

The investigation committee and the RIO are responsible for preparing a written draft report of the
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- Describes the nature of the allegation of research misconduct, including identification of the respondent;
- Describes and documents the PHS support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing PHS support;
- Describes the specific allegations of research misconduct considered in the investigation;
- Includes the institutional policies and procedures under which the investigation was conducted, unless those policies and procedures were provided to ORI previously;
- Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) 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; (3) identify the specific PHS support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with non-PHS federal agencies.

The Director of RSP must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 days from the date he/she received the draft report to submit comments to the Director of RSP. The respondent's comments must be included and considered in the final report.

In distributing the draft report, or portions thereof, to the respondent, the Director of RSP will inform
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the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the Director of RSP may require that the recipient sign a confidentiality agreement.

Unless an extension has been granted, the Director of RSP must, within the 120-day period for completing the investigation, submit the following to ORI: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

The investigation ordinarily should be completed and the final report submitted to the OSI within 120 days of its initiation. If the investigation cannot be completed within 120 days, the University will submit to the OSI a written request for an extension together with an explanation for the delay, an interim report on the progress to date, and an estimate for the date of completion. If the request for an extension is granted, the University will file periodic progress reports if requested by the OSI. NSF may require submission of periodic status reports if the investigation is not concluded within 180 days. The final report will meet the OSI requirements of describing 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, and include the actual text or an accurate summary of the views of any individual found to have engaged in misconduct, as well as a description of any sanctions taken by the University.

D. Copy of final report to PHS and NSF

The PHS and NSF will be notified of the final outcome of an investigation involving their funded project(s), and provided with a complete copy of the final report.
VII. Other Considerations
Provisions Applicable to Inquiries, Investigations, and Reporting

A. Termination or Resignation Prior to Completing Inquiry or Investigation
The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution's responsibilities under 42 CFR Part 93.

If the respondent, without admitting to the misconduct, elects to resign his or her position after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

B. Restoration of the Respondent's Reputation
Following a final finding of no research misconduct, including ORI concurrence where required by 42 CFR Part 93, 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 DO.

The University will protect, to the maximum extent possible, the privacy of all individuals involved including those who in good faith report apparent misconduct, those accused of misconduct, and those who provide information or documentation in connection with inquiries, investigations or reporting. The University will afford the affected individual confidential treatment to the maximum extent possible, a prompt and thorough investigation, and an opportunity to comment on allegations and findings of the inquiry and/or the investigation. The University will undertake diligent efforts as appropriate to restore the reputations of individuals alleged to have engaged in misconduct when allegations are not confirmed, and also undertake diligent efforts to protect the positions and reputations of those individuals who, in good faith, make allegations. The University will take care to avoid that any individual with a real or apparent conflict of interest does not participate in an inquiry or investigation. Whenever necessary and appropriate to insure a thorough and authoritative evaluation of all the evidence during an inquiry or investigation individuals with special expertise
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C. Protection of the Complainant, Witnesses and Committee Members
During the research misconduct proceeding and upon its completion, regardless of whether the institution or ORI determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

D. Allegations Not Made in Good Faith
If relevant, the DO will determine whether the complainant’s allegations of research misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith, he/she will determine whether any administrative action should be taken against the person who failed to act in good faith.

VIII. Miscellaneous
An inquiry or investigation report is a summary of the facts discovered and an opinion regarding these facts. As such it is a University document and its authors are protected in the same way as other University employees are protected when they render formal opinions regarding the competence and fitness for service of other University employees.

When the findings of an inquiry report which does not require a subsequent investigation, or the findings of an investigation report implicate an employee of the University in misconduct in research or creative activity, the Associate Vice President for Research and Sponsored Programs may recommend the initiation of disciplinary proceedings against such an individual. The disciplinary proceeding shall be in accordance with the provisions of relevant CSU and campus regulations and Memorandum of Understanding with faculty and staff bargaining units. This policy is effective immediately upon issuance.
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