

Research Misconduct Policy

University of Arkansas at Little Rock
1999

Policy for Responding to Allegations of Misconduct in Scholarly Activity

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I. Introduction

A. General Policy

The basic principle in the conduct of scholarly activity rests on objective inquiry and the pursuit of truth. Integrity in the conduct of scholarly activity is essential and must be maintained.

Although instances of misconduct are rare, it is acknowledged that they do occur. Once they do occur, they present a serious threat to continued public confidence in the integrity of the scholarship and the stewardship of funds which support the scholarly activity.

This Policy provides the basis for uniform procedures for dealing with instances of alleged or apparent misconduct, as the term is defined herein, and the responsibilities for such actions.

This Policy is written and approved in accordance with Public Health Service regulation 42 CFR Part 50, Subpart A.

B. Scope

This policy applies to all individuals at University of Arkansas at Little Rock paid by, under the control of, or affiliated with the institution, including faculty, administrators, scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at University of Arkansas at Little Rock.

This policy neither limits nor supersedes the University's policies on Academic Integrity and Discipline for undergraduate and graduate students as stated in the UALR Student Handbook.

II. Definitions

- A. *Activity record* means any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported activity that constitutes the subject of an allegation of misconduct. An activity record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract process and other reports; laboratory notebooks; notes; correspondence; videos; photographs; works of art; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; and consent forms.
- B. *Allegation* means any written or oral statement or other indication of possible misconduct made to an institutional official.
- C. *Complainant* means a person who makes an allegation of misconduct.
- D. *Conflict of interest* means real or apparent bias due to prior or existing personal or professional relationships.

- E. *Goodfaith allegation* means an allegation made with the honest belief that misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for, or willful ignorance of, facts that would disprove the allegation.
- F. *Inquiry* means gathering information and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
- G. *Integrity Officer* means the University of Arkansas at Little Rock official responsible for assessing allegations of misconduct and determining when such allegations warrant inquiries and overseeing inquiries and investigations.
- H. *Investigation* means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and, if so, to determine the responsible person and the seriousness of the misconduct.
- I. *Respondent* means the person against whom an allegation of 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.
- J. *Retaliation* means any action that adversely affects the employment or other institutional status of an individual that is taken by University of Arkansas at Little Rock or an employee because the individual has, in good faith, made an allegation of misconduct or has cooperated in good faith with an investigation of such allegation, or inadequate institutional response thereto.
- K. *Misconduct* means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting scholarly activity. It does not include honest error or honest differences in interpretations or judgments of data.

III. Rights and Responsibilities

A. Integrity Officer

The Chancellor will appoint the Integrity Officer who will have primary responsibility for implementation of the procedures set forth in this document. The Integrity Officer will be a University of Arkansas at Little Rock official who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct scholarly activities, those who are accused of misconduct, and those who report apparent misconduct in good faith.

The Integrity Officer will preside over the inquiry and investigation committees and ensure that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation. The Integrity Officer will attempt to ensure that confidentiality is maintained.

The Integrity Officer will assist inquiry and investigation committees and all University of Arkansas at Little Rock personnel in complying with this policy and with applicable standards imposed by government or external funding sources. The Integrity Officer is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

If a sponsored project is involved, the Integrity Officer will report to the Funding Agency and keep the Funding Agency apprised of any developments during the course of the inquiry or investigation that may affect current or potential sponsored funding for the individual(s) under investigation or that the Funding Agency needs to know to ensure appropriate use of external funds and otherwise protect the public interest.

B. Complainant

The complainant will have an opportunity to testify before the inquiry and investigation committees, to review portions of the inquiry and investigation reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the Integrity Officer has determined that the complainant may be able to provide pertinent information on any portions of the draft report these portions may be given to the complainant for comment.

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

C. Respondent

The respondent will be informed of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting actions. The respondent also will have the right to be interviewed by and present evidence to the inquiry and investigation committees, to review the draft inquiry and investigation reports, and to have the advice of legal counsel employed at his or her own expense.

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the respondent is not found guilty of misconduct, he or she has the right to receive institutional assistance in restoring his or her reputation.

D. Deciding Official

The Chancellor will receive the inquiry and/or investigation report and any written comments made by the respondent or the complainant on the draft report. The Chancellor will consult with the Integrity Officer or other appropriate officials and will determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions [see section X].

IV. General Policies and Principles

A. Responsibility to Report Misconduct

All employees or individuals associated with University of Arkansas at Little Rock should report observed, suspected, or apparent misconduct in scholarly activities to the Integrity Officer or Chancellor. If an individual is unsure whether a suspected incident falls within the definition of misconduct, he or she may call the Integrity Officer to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of misconduct, the Integrity

Officer will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an employee may have confidential discussions and consultations about concerns of possible misconduct with the Integrity Officer and will be counseled about appropriate procedures for reporting allegations.

B. Protecting the Complainant

The Integrity Officer will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The Integrity Officer will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action.

Employees should immediately report any alleged or apparent retaliation to the Integrity Officer.

University of Arkansas at Little Rock will protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the complainant requests anonymity, University of Arkansas at Little Rock will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations, and state and local laws, if any. The complainant will be advised that if the matter is referred to an investigation committee and the complainant's testimony is required, anonymity may not be possible. University of Arkansas at Little Rock will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

C. Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

D. Cooperation with Inquiries and Investigations

University of Arkansas at Little Rock employees will cooperate with the Integrity Officer and other University of Arkansas at Little Rock officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the Integrity Officer or other University of Arkansas at Little Rock officials on misconduct allegations.

E. Preliminary Assessment of Allegations

Upon receiving an allegation of misconduct, the Integrity Officer will immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry, and whether the allegation falls under the University of Arkansas at Little Rock definition of misconduct.

V. Conducting the Inquiry

A. Initiation and Purpose of the Inquiry

If the Integrity Officer determines that the allegation provides sufficient information to warrant specific follow-up, and falls under the definition of misconduct, he or she immediately will initiate the inquiry process. In initiating the inquiry, the Integrity Officer should clearly identify the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the respondent complainant, and key witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. The purpose of the inquiry is **not** to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report. An Inquiry Committee shall be appointed as provided for herein.

B. Sequestration of the Activity Records

After determining that an allegation falls within the definition of misconduct, the Integrity Officer must ensure that all original activity records and materials relevant to the allegation are immediately secured. This sequestration should occur before the respondent is notified of the inquiry.

C. Appointment of the Inquiry Committee

The Inquiry Committee shall consist of the supervisory dean, supervisory chairperson and may include one additional expert appointed by the supervisory dean in the case of students and faculty OR the immediate supervisor and one additional expert in the case of other employees.

The Integrity Officer will notify the respondent of the inquiry and the members of the Inquiry Committee. If the respondent submits a written objection to any member of the Inquiry Committee based on bias or conflict of interest within 5 days, the Integrity Officer will determine whether to replace the challenged member with a qualified substitute.

D. Charge to the Committee and the First Meeting

The Integrity Officer will prepare a charge for the Inquiry Committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. The purpose is not to determine whether misconduct definitely occurred or who was responsible.

At the committee's first meeting, the Integrity Officer will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The Integrity Officer

will be present throughout the inquiry to advise the committee as needed. Institutional legal counsel will be available to advise the committee if needed.

E. Inquiry Process

The Inquiry Committee normally will interview the complainant, the respondent, and key witnesses as well as examine relevant activity records and materials. The Inquiry Committee then will evaluate the evidence and testimony obtained during the inquiry. After consultation with the Integrity Officer and institutional legal counsel (if deemed appropriate), the committee members will decide whether there is sufficient evidence of possible misconduct to recommend further investigation.

VI. The Inquiry Report

A. Elements of the Inquiry Report

A written inquiry report shall be prepared that states the name and position of the committee members and experts, if any; the allegations; a summary of the inquiry process used; a list of the activity records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. Institutional legal counsel may review the report for legal sufficiency.

B. Comments on the Draft Report by the Respondent and the Complainant

The Integrity Officer will provide the respondent with a copy of the draft inquiry report for comment and rebuttal and will provide the complainant, if he or she is identifiable, with the portions of the draft inquiry report that address the complainant's role and opinions of the investigation.

1. Confidentiality

The Integrity Officer may establish reasonable conditions for review to protect the confidentiality of the draft report.

2. Receipt of Comments

Within 5 calendar days of their receipt of the draft report, the complainant and respondent will provide their comments, if any, to the inquiry committee. Any comments that the complainant or respondent submits on the draft report will become part of the inquiry report and record.

Based on the comments, the inquiry committee may revise the report as appropriate.

C. Inquiry Decision and Notification

1. Decision by Deciding Official

The Integrity Officer will transmit the final report and any comments to the Chancellor (Deciding Official), who will make the determination of whether findings from the inquiry provide sufficient evidence of possible misconduct

to justify conducting an investigation. The inquiry is completed when the Chancellor makes this determination, which will be made within 75 days of the first meeting of the inquiry committee. Any extension of this period will be based on good cause and recorded in the inquiry file.

2. Notification

The Integrity Officer will notify both the respondent and the complainant in writing of the Chancellor's decision of whether to proceed to an investigation and will remind them of the obligation to cooperate in the event an investigation is opened. The Integrity Officer will also notify all appropriate University of Arkansas at Little Rock officials of the Chancellor's decision.

D. Time Limit for Completing the Inquiry Report

The inquiry committee will normally complete the inquiry and submit its report in writing to the Integrity Officer no more than 60 calendar days following its first meeting. This includes conducting the inquiry, obtaining comments from the respondent and complainant, and submitting the report to the Chancellor through the Integrity Officer.

VII. Conducting the Investigation

A. Purpose of the Investigation

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, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects activity that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be included in an investigation report.

B. Sequestration of the Activity Records

The Integrity Officer will immediately sequester any additional pertinent activity records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the respondent is notified that an investigation has begun. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

C. Appointment of the Investigation Committee

The Chancellor shall appoint three tenured faculty members, who he/she deems to have appropriate expertise to assure a sound knowledge base from which to work, to the Misconduct in Scholarship Investigation Committee. The Chancellor can appoint additional members to the Investigation Committee if certain knowledge or experience is desired.

The Integrity Officer will notify the respondent of the proposed committee membership within 5 days of initiation of the investigation. If the respondent

submits a written objection to any appointed member of the investigation committee within 5 days of receipt of such notification, the Integrity Officer will determine whether to replace the challenged member with a qualified substitute.

D. Charge to the Committee and the First Meeting

1. Charge to the Committee

The Integrity Officer will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, defines misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses to determine whether, based on a preponderance of the evidence, misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the Integrity Officer, who will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

2. The First Meeting

The Integrity Officer will convene the first meeting of the Investigation Committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation. The Integrity Officer may seek the assistance of institutional legal counsel in conducting these duties. The Investigation Committee will be provided with a copy of the instructions.

E. Investigation Process

The Investigation Committee will be appointed and the process initiated within 30 days of the completion of the inquiry.

The investigation normally will involve examination of all documentation including, but not necessarily limited to, relevant activity records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Whenever possible, the committee should interview the complainant(s), the respondent(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the respondent should be tape recorded or transcribed. All other interviews should be transcribed, tape recorded, or summarized. Summaries or transcripts of the interviews should be prepared, provided to the interviewed party for content or revision, and included as part of the investigative file.

VIII. The Investigation Report

A. Elements of the Investigation Report

The final report submitted to the Chancellor must describe how and from whom information relevant to the investigation was obtained, state the findings, and explain the basis for the findings. The report will include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct.

B. Comments on the Draft Report

1. Respondent

The Integrity Officer will provide the respondent with a copy of the draft investigation report for comment and rebuttal. The respondent will be allowed 15 calendar days to review and comment on the draft report. The respondent's comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all the other evidence.

2. Complainant

The Integrity Officer will provide the complainant with those portions of the draft investigation report that address the complainant's role and opinions in the investigation. The complainant will be allowed 15 calendar days to review and comment on the draft report. The complainant's comments will be attached to the final report. The findings of the final report should be modified, as appropriate, based on the complainant's comments.

3. Institutional Legal Counsel

The draft investigation report will be transmitted to the institutional legal counsel for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

Confidentiality

In distributing the draft report, or portions thereof, to the respondent and complainant, the Integrity Officer will inform 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 Integrity Officer may request the recipient to sign a confidentiality statement or to come to his or her office to review the report.

C. Institutional Review and Decision

Based on a preponderance of the evidence, the Chancellor will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. If this determination varies from that of the Investigation Committee, the Chancellor will submit to the Investigation Committee a written explanation detailing the basis for rendering a decision different from that of

the Investigation Committee. The Chancellor's explanation should be consistent with the Institution's definition of misconduct, the Institution's policies and procedures, and the evidence reviewed and analyzed by the Investigation Committee. The Chancellor also may return the report to the Investigation Committee with a request for further fact-finding or analysis. The Chancellor's determination, together with the Investigation Committee's report, constitutes the final investigation report for purposes of Funding Agency review. If the activity is externally funded, the Chancellor will explain any variance in his/her final determination in the final investigation letter transmitting the report to the Funding Agency.

When a final decision on the case has been reached, the Integrity Officer will notify both the respondent and the complainant in writing. In addition, the Chancellor will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The Integrity Officer is responsible for ensuring compliance with all notification requirements of funding agencies.

D. Transmittal of the Final Investigation Report to Funding Agency

After comments have been received and the necessary changes have been made to the draft report, the Investigation Committee should transmit the final report with attachments, including the respondent's and complainant's comments, to the Funding Agency, through the Integrity Officer.

E. Time Limit for Completing the Investigation Report

An investigation ordinarily should be completed within 120 calendar days of its initiation, with the initiation being defined as the first meeting of the Investigation Committee. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the Chancellor for approval, and submitting the report to the Funding Agency.

IX. Requirements for Reporting to the Funding Agency

A. University of Arkansas at Little Rock's decision to initiate an investigation must be reported in writing to the Funding Agency, on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the funding agency definition of misconduct, and the application or grant number(s) involved. The Funding Agency must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report. Any significant variations from the provisions of the institutional policies and procedures should be explained in any reports submitted to the Funding Agency.

B. If University of Arkansas at Little Rock plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of this policy, the Integrity Officer will submit a report of the planned termination to the Funding Agency, including a description of the reasons for the proposed termination.

- C. If University of Arkansas at Little Rock determines that it will not be able to complete the investigation in 120 calendar days, the Integrity Officer will submit a written explanation of which describes reasons for the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken.
- D. When Public Health Service (PHS) funding or applications for funding are involved and an admission or finding of misconduct is made, the Integrity Officer will contact the Office of Research Integrity (ORI) for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves PHS funds, University of Arkansas at Little Rock cannot accept an admission of misconduct as a basis for closing a case or not undertaking an investigation without prior approval from the ORI.
- E. The Integrity Officer will notify the Funding Agency at any stage of the inquiry or investigation if:
1. there is an immediate health hazard involved;
 2. there is an immediate need to protect external funds or equipment;
 3. 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;
 4. it is probable that the alleged incident is going to be reported publicly;
 5. the allegation involves a public health sensitive issue, e.g. a clinical trial;
 6. there is a reasonable indication of possible criminal violation. In this instance, the institution must inform the Funding Agency within 24 hours of obtaining that information.

X. Institutional Administrative Actions

University of Arkansas at Little Rock will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.

If the Chancellor determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the Integrity Officer. The actions include:

- informing in writing the agency (if any) sponsoring the activity;
- informing in writing the University of Arkansas Board of Trustees;
- recommending to the President appropriate administrative action as provided for in the policies and procedures of the University;
- withdrawal or correction of all pending or published abstracts and papers emanating from the activity where misconduct was found

- restitution of funds as appropriate; and
- other action deemed appropriate by the Chancellor.

XI. Other Considerations

A. Termination of Institutional Employment or Resignation Prior to Completing Inquiry or Investigation

In the case of externally sponsored activities, the termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible misconduct has been reported, will not preclude or terminate misconduct procedures outlined in this Policy. If the respondent without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

B. Restoration of the Respondent's Reputation

If the University of Arkansas at Little Rock finds no misconduct after consulting with the respondent, the Integrity Officer will undertake reasonable efforts to restore the respondent's reputation. Depending on the particular circumstances, the Integrity Officer should consider notifying those individuals aware of or involved in the investigation of the outcome, publicizing the final outcome in forums in which the allegation of misconduct was previously publicized, or expunging all reference to the misconduct allegation from the respondent's personnel file.

C. Protection of the Complainant and Others

Regardless of whether the institution determines that scientific misconduct occurred, the Integrity Officer will undertake reasonable efforts to protect complainants who made allegations of misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the Chancellor will determine, after consulting with the complainant, what steps, if any, are needed to restore the position or reputation of the complainant. The Integrity Officer is responsible for implementing any steps the Chancellor approves. The Integrity Officer also will take appropriate steps during the inquiry and investigation to prevent any retaliation against the complainant. The University follows the Public Health Service Office of Research Integrity's "Guidelines for Responding to Possible Retaliation Against Whistleblowers in Extramural Research."

D. Allegations Not Made in Good Faith

If relevant, the Chancellor will determine whether the complainant's allegations of misconduct were made in good faith. If an allegation was not made in good faith, the Chancellor will determine whether any administrative action should be taken against the complainant as provided for in the policies and procedures of the University.

E. Interim Administrative Actions

Institutional officials will take interim administrative actions, as appropriate, to protect external funds and ensure that the purposes of the external financial assistance are carried out.

XII. Record Retention

After completion of a case and all ensuing related actions, the Integrity Officer will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the Integrity Officer or committees. The Integrity Officer will keep the file for five years after completion of the case. The Funding Agency or other authorized Office of Research Integrity personnel will be given access to the records upon request.