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# SOUTHEASTERN

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## L O U I S I A N A U N I V E R S I T Y

### **Misconduct in Research**

#### **PURPOSE**

The University has a commitment to high ethical standards in research; therefore it provides this policy and procedure for an administrative process to review reports of alleged misconduct in research conducted at the University.

Federal law mandates that Federal agencies sponsoring research must require an awardee institution to have such a policy in place. For instance, Section 493 of the Public Health Service Act, as amended (Public Law 99-158, November 20, 1985; 99 Stat. 374-875; 42 U.S.C. 289b), provides that the Secretary, by regulation, require that entities receiving Federal funds for the conduct of research, research training and related research activities submit assurances that these entities have established, based on regulations prescribed by the Secretary, an administrative process to review reports of alleged misconduct in research, research training and related research activities, and a mechanism for reporting any investigation of alleged scientific misconduct to the Secretary. Additionally, this policy is in accordance with the National Institutes of Health, 42 CFR Part 93, and the National Science Foundation, 45 CFR Part 689, as applicable.

The primary responsibility for detecting, investigating, reporting and resolving allegations of alleged misconduct rests with the University, and it must promptly initiate an inquiry into any suspected or alleged misconduct brought to its attention, either by a third party or on its own motion, and conduct an investigation, if warranted, taking whatever action necessary to ensure the integrity of research, the rights and interests of research subjects and the public, and the observance of legal requirements of the funding. The Dean of the college in which the misconduct occurs will coordinate the investigation of alleged misconduct.

#### **PROCEDURE**

##### **Definitions**

"Inquiry" means information-gathering and initial fact-finding to determine whether an allegation of misconduct warrants an investigation.

"Inquiry Committee" means a committee of six (6) faculty members experienced in research and representing a cross section of the academic disciplines. The Committee is appointed by the Provost based upon the recommendations of the Deans.

"Investigation" means the formal examination and in-depth evaluation of all relevant facts to determine if misconduct has occurred.

"Investigative Committee" means a committee of five (5) faculty members, three (3) of whom will be senior, tenured faculty members having expertise in the areas in question, which are to be appointed by the Provost based upon the recommendation of the Deans, and two (2) faculty members named by the accused who agree to serve. An attorney may be named to serve in an advisory capacity and a recording secretary will be designated to record the proceedings of the meetings. The accused may have his/her attorney present for advising purposes only. However, the attorney is not provided an opportunity to address the Investigative Committee directly.

"Misconduct" or "Misconduct in Science" means 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. Misconduct does not include honest error or honest differences in interpretation or judgments of data.

"Complainant" refers to the individual(s) alleging that an act of misconduct has occurred. In some cases a complainant person is unnecessary where the issue of misconduct is to be determined by a review of documents or other materials.

"Respondent" refers to the individual(s) against whom an allegation of misconduct has been made.

### **Mechanisms for Inquiry into Alleged Misconduct in Research**

Initial written reports of alleged misconduct are to be brought to the attention of the supervisor of the individual(s), i.e., respondent(s) whose actions are in question. If the individual making the informal allegation chooses not to make a formal allegation, but the Department Head or Dean of the College believes there is sufficient cause to warrant an inquiry, the matter will be pursued; in such a case, there is no complainant.

At the University this initial report is made to the department head who must refer the matter in writing to the Dean of the College within seven (7) working days of receipt thereof, with or without comments. The person accused of misconduct will be notified and given an opportunity to provide a written response. Only in very unusual circumstances, the complainant making the original allegations may report the incident directly to the Dean of the College.

The Dean of the college will review the materials. If after this review the Dean of the college believes the incident warrants an inquiry, the incident will be referred to the Inquiry Committee within thirty (30) days. Within ten (10) working days of the receipt of a report of alleged misconduct, the Inquiry Committee, shall convene and commence its inquiry. As soon as feasible, but not more than 45 days after its appointment, the Inquiry Committee will review the available information, including information received from the accused individual(s), make a written report, and recommend to the Dean of the college whether or not an investigation should be conducted. A copy of the written report will be made available to the accused individual(s). The Inquiry Committee shall reach its determination on a case-by-case basis, considering all relevant factors, including, but not limited to:

1. the accuracy and reliability of the source of the allegation of the misconduct;
2. the seriousness of the alleged misconduct;

3. the scope of the alleged incident and the context in which it becomes known; and
4. other information obtained during the inquiry.

The Dean of the college will recommend to the Provost whether to terminate the inquiry or proceed with a formal investigation based on the report of the Inquiry Committee. If it is determined by the Dean of the college that there is not sufficient basis for pursuing the allegations, this conclusion will be reported to the Provost with a recommendation that the matter be considered closed. If the Dean of the college deems a more thorough investigation is warranted, the recommendation to the Provost will be to form an Investigative Committee. If the evidence reveals possible criminal violations, the recommendation to the Provost will be to have the file turned over to the appropriate legal authority for review. The Provost will consult the President in such matters.

The findings of and recommendations from the Inquiry Committee, and the recommendations of the Dean of the college, and the Provost's response to the recommendations will be documented in a written report. The Dean of the college will be responsible for maintaining an appropriately constituted file for each inquiry. Inquiry results and the Provost's decision will be made available to the respondent, to the complainant, and the Inquiry Committee. If an investigation is recommended by the Inquiry Committee, within ten (10) working days of the receipt of its findings and recommendations, the Dean of the college, in consultation with the Provost, shall appoint an Investigative Committee, which shall convene and commence its investigation as soon as feasible, and report within 120 days of its appointment its findings and recommendations to the respondent(s) and the Dean of the college, who will promptly forward to the Provost. All materials gathered by the Inquiry Committee, as well as its findings and recommendations, will be made available immediately to the Investigative Committee if it is convened.

Since reporting requirements of sponsoring agencies vary widely, the Dean of the college will notify the agency sponsoring the activities of the individuals if findings from the inquiry process indicate an investigation is to be undertaken in accordance with the regulations of the sponsoring agency.

### **Mechanism for Investigation of Alleged Misconduct in Research**

If the Provost deems a more thorough investigation is warranted, the Dean of the college will notify the respondent of the right to choose two (2) committee members. The Dean of the College will then recommend three (3) additional faculty members to serve on the Investigative Committee, which shall convene immediately to conduct a prompt and thorough investigation of the alleged misconduct. In undertaking this investigation, the Committee will act promptly, ensure fairness to all, secure necessary and appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence, and take precautions against real or apparent conflicts of interest. An investigation may consist of a combination of activities including but not limited to:

1. review of readily available documents;
2. review and copying of data or other pertinent documents of the University or elsewhere;
3. review of the administrative procedures and/or methods at the University, including whatever investigative process has been involved;
4. inspection of laboratory or clinical facilities and/or material at the University;
5. interview parties and witnesses who may have been involved in or have knowledge about the case;
6. review of relevant publications;
7. invite outside consultants to participate in an investigation, either as site visitors to the University or in some other capacity;

8. review of any documents or evidence provided by or properly obtainable from parties, witnesses or other sources;
9. cooperation with other agencies;
10. opportunity for the subject of the investigation to be heard; and
11. full adjudicatory hearings or other formal proceedings as warranted.

Within 120 days of its appointment, the Investigative Committee will formulate a written report of its findings and conclusions regarding the validity of the accusations and immediately forward it to the Dean of the college. The Investigative Committee may make recommendations regarding administrative action to be taken.

The Dean of the college, based on the content and recommendations and any other information contained in the report of the Investigative Committee, will make a recommendation to the Provost for action within thirty (30) days after receiving the report. The Dean of the college may recommend to the Provost interim administrative actions as appropriate. The Dean of the college will keep the applicable sponsoring agency apprised of any developments during the course of the investigation as required by the regulations of the sponsoring agency.

### **Action to be Followed Subsequent to an Investigation**

If the alleged misconduct is substantiated by a thorough investigation, the following actions, if appropriate, will be completed in a timely manner:

1. appropriate sponsoring agencies will be notified of the findings of the investigation
2. all pending abstracts and papers emanating from fraudulent research will be withdrawn or corrected; editors of journals in which previous abstracts and papers appeared will be notified;
3. other institutions and sponsoring agencies with which the individual has been affiliated will be notified if there is reason to believe that the validity of previous research might be questionable; and
4. appropriate action will be taken to terminate or alter the status of faculty members(s) whose misconduct is substantiated. The disciplinary action of respondent(s) may consist of, but is not limited to, one or more of the following:
  - a. Letter of reprimand
  - b. Removal from particular project
  - c. Special monitoring of future work
  - d. Probation
  - e. Suspension
  - f. Salary reduction
  - g. Rank reduction
  - h. Termination of employment

### **Protection of Rights**

From the onset, to the extent allowable by law, the University will protect the rights and reputations of all parties, including the individuals who report the perceived misconduct in good faith, the individuals about whom the allegations are made, and the members of the Inquiry and Investigative Committees.

The Dean of the college will afford the respondent individuals confidential treatment to the extent allowable by law, a prompt and thorough inquiry and/or investigation, an opportunity to provide evidence and/or documentation relative to the allegations, and an opportunity to comment on allegations and findings of the Inquiry Committee and its recommendation and the findings of the Investigative Committee and its recommendation.

If the alleged misconduct is not substantiated by a thorough investigation, formal efforts will be undertaken to restore fully the reputation of the respondent(s) under investigation. In addition, appropriate disciplinary action may be taken against any complainants whose involvement in leveling unfounded charges was demonstrated to have been malicious or intentionally dishonest.

Subsequent to the completion of an investigation, faculty practices and institutional policies and procedures for promoting the ethical conduct of research and investigation allegations of misconduct will be scrutinized and modified in the light of experience gained.

### **Recapitulation of Time Considerations**

1. Within seven (7) working days of the receipt of a written report of alleged misconduct, the department head must refer the matter in writing, with or without comment, to the Dean of the College; the accused individual(s) will be notified.
2. Within thirty (30) days of receipt of the initial report, the Dean of the college will refer the incident to the Inquiry Committee.
3. Within ten (10) working days of receipt of a written notice of alleged misconduct, the Inquiry Committee shall convene and commence its inquiry as soon as feasible and report within forty-five (45) days of its appointment its findings to the Dean of the college, who shall promptly forward the report together, with his/her recommendations to the Provost.
4. If an investigation is recommended by the Inquiry Committee, within ten (10) working days of receipt of the written findings and recommendations, the Dean of the college shall appoint the Investigative Committee (in consultation with the Provost), which shall convene and commence its investigation as soon as feasible and report within one hundred twenty (120) days of its appointment its findings and recommendations to the Dean of the college. The Dean of the college shall promptly forward the report together with his/her recommendations to the Provost.
5. If an investigation is recommended by the Inquiry Committee, the Dean of the college shall notify the sponsoring agency in accordance with the regulations of the agency.
6. If an investigation is found unwarranted by the Inquiry Committee and the Inquiry Committee reports that no further action should be taken, the Dean of the college shall **promptly** forward the report together with his/her recommendations to the Provost. The Dean of the college should follow this same procedure if the recommendation of the Investigative Committee should be that no further action be taken.
7. Within ten (10) working days of receipt of any written report of the Inquiry Committee and the recommendation of the Dean of the college, the Provost shall issue a written disposition of the matter and notify in writing the individuals accused of the decision. At this time, the Dean of the college will notify the accused of the right to choose two (2) committee members if an investigation is necessary.