

## 15.99.03 Ethics in Research, Scholarship and Creative Work

Revised [March 12, 2018](#)

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### Regulation Summary

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This regulation addresses allegations of misconduct in research, scholarship and creative work at members of The Texas A&M University System (system) and applies to both non-sponsored and sponsored activities, regardless of the funding source. Each member shall adopt its own rule for handling allegations of scientific or scholarly misconduct consistent with the terms of this regulation.

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### Definitions

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### Regulation

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#### 1. GENERAL

Academic research, scholarship and creative work must be conducted under the highest standards of honesty and integrity and all data, primary sources, procedures and findings will be properly and thoroughly documented. The credibility and long-term reputation of the faculty and staff of each member depend on the encouragement, enforcement and reward of superior ethical standards. Achieving high ethical standards should transcend considerations of finance, personal gain and short-term individual and institutional recognition.

#### 2. DUTIES OF DESIGNATED OFFICER

Each member shall have a designated officer whose duties shall include the following:

- (a) securing the necessary and appropriate level of expertise to carry out a thorough and authoritative evaluation of the relevant evidence in any inquiry or investigation;
- (b) evaluating allegations of misconduct in research, scholarship or creative work as described in Section 3;
- (c) taking precautions to ensure impartiality of those involved in the inquiry or investigation;

- (d) defining the scope of the investigation in accordance with the terms of this regulation, applicable rule(s) of the member and any state or federal laws, policies or regulations which may be applicable;
- (e) preparing and maintaining all documentation gathered or generated during the inquiry and investigation. This includes maintaining sufficiently detailed documentation of an inquiry that was not followed by an investigation to permit a later assessment of the reasons for determining that an investigation was not warranted. Such records shall be maintained in a secure manner for a period of at least three years after the termination of the inquiry;
- (f) taking interim administrative actions, as appropriate in the case of research, scholarship or creative work conducted with outside funds, to protect such funds and ensure that the purposes of the financial assistance are carried out. Sponsors shall be informed about the status of investigations in accordance with the applicable rules and regulations of the funding entity; and
- (g) notifying the appropriate outside entities of the outcome of an inquiry or investigation when required.

### 3. EVALUATING ALLEGATIONS OF MISCONDUCT

Upon receiving an allegation of misconduct in research, scholarship or creative work, the designated officer will review and assess the allegation to determine whether:

- (a) the allegation falls within the definition of misconduct in research, scholarship or creative work provided in this regulation;
- (b) the allegation is sufficiently credible and specific to warrant an inquiry; and
- (c) federal funding is involved.

### 4. NOTIFICATION REQUIREMENTS

4.1 In cases involving funds provided by the Public Health Service or any organizational unit thereof, the designated officer shall notify the Office of Research Integrity (ORI), in accordance with 42 CFR Part 50, when, on the basis of an initial inquiry, the member determines that an investigation is warranted or, prior to the decision to initiate an investigation, if any of the following conditions exist:

- (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 complainant or the respondent and/or co-investigators and associates, if any;
- (d) it is probable that the alleged incident will be reported publicly; and/or
- (e) there is a reasonable indication of possible criminal violations, in which case the institution shall notify ORI within 24 hours of obtaining that information.

4.2 In cases involving funds provided by the National Science Foundation (NSF), the designated officer shall notify the Office of the Inspector General with NSF in

accordance with 45 CFR Part 689 when, on the basis of an initial inquiry, the institution determines that an investigation is warranted or, prior to the decision to initiate an investigation, if any of the following conditions exist:

- (a) public health or safety is at risk;
- (b) NSF's resources, reputation or other interests need protecting;
- (c) there is a reasonable indication of possible violations of civil or criminal law;
- (d) research activities should be suspended;
- (e) federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or
- (f) the scientific community or the public should be informed.

## 5. PROCEDURES

### 5.1 Inquiry

5.1.1 The designated officer may initiate an inquiry based upon a written complaint alleging information which is sufficiently credible and specific to justify such action. The respondent will be informed as soon as is practicable that an inquiry has been initiated and, in any event, no later than five working days after the inquiry has begun.

5.1.2 Confidentiality in proceedings carried out under this regulation is encouraged in the interest of fairness to all parties concerned. To the extent possible, consistent with the requirements of due process, the identity of complainants who wish not to be identified as initiators of the complaint will be kept confidential and will not be released to the respondent. If a complainant wishes to request not to be identified as the initiator of the complaint in the course of the inquiry or investigation, he or she must notify the designated officer of such fact simultaneously with the filing of the complaint. Such confidentiality may not, however, be possible or desirable throughout the entire course of a proceeding under this regulation. Where the interests of due process would require that a complainant's name be given to the respondent, and such interests could not be fairly treated by any other means, the designated officer may elect to do so after notifying the complainant.

5.1.3 If the respondent is employed by more than one member, the designated officer receiving the original complaint shall notify the designated officer of the other member(s), and they shall determine which member(s) shall be responsible for dealing with the complaint. In the event that the members are unable to determine who will handle the case, they shall request that the chief research officer make such determination. The member(s) that does not handle the complaint shall be kept informed of the progress of the complaint by the designated official. For the purposes of this regulation, any action taken against a respondent by the member that handles the complaint shall apply with equal force to such individual with regard to his or her employment status with any other member(s).

- 5.1.4 The designated officer or a committee appointed by him or her shall conduct the inquiry. The designated officer and/or the committee may utilize the services of other individuals and entities in order to make a complete inquiry as to whether evidence exists which would warrant an investigation. The inquiry must be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period.
- 5.1.5 The designated officer or the committee, as applicable, shall prepare a written report stating what evidence was reviewed, summarizing relevant interviews and including any conclusions reached as a result of the inquiry. The respondent shall be given a copy of the inquiry report. If the respondent chooses to comment on the report, his or her comments shall be made a part of the record.
- 5.1.6 If it is determined that an investigation is needed, the member chief executive officer (CEO) shall be informed of such fact. Simultaneous notice shall be given to the Office of General Counsel and any funding agencies.

## 5.2 Investigation

- 5.2.1 If the findings of the inquiry provide sufficient basis for conducting an investigation, one shall be undertaken within 30 calendar days of the date the CEO is notified of the need for an investigation. An investigation committee shall be appointed by the CEO or designee. The committee shall have at least three members, one or more of whom is a faculty member in the same discipline as the respondent (in the case of faculty members), or a staff member whose discipline and job responsibilities are substantially similar to those of the respondent (in the case of staff members). The committee shall follow those procedures applicable to investigations described in Section 6 of this regulation.
- 5.2.2 The investigation committee's findings and any recommended sanctions shall be forwarded to the respondent. The respondent may comment on all or any part of such findings and recommended sanctions within 10 calendar days of the date the respondent was notified of the committee's decision. After receipt of the respondent's comments, the committee's report of findings and any recommended sanctions and the respondent's comments shall be forwarded to the CEO or designee.
- 5.2.3 An investigation shall normally be completed within 180 calendar days of its initiation. This includes conducting the investigation, preparing the report of findings, making that report available for comment by the respondent, imposing any recommended sanctions and submitting the report to any funding agency as may be required by regulation or statute. Extensions of such time may be requested as permitted by any funding agency. If no funding agency is involved, the CEO or designee may extend the time period by notice of such fact in writing delivered to the respondent. The respondent may request an extension of such time by means of a written request directed to the CEO or designee.

## 5.3 Adjudication

5.3.1 The CEO or designee shall render a decision in writing no later than 15 calendar days after the date of receipt of the investigation committee's report of findings. The CEO or designee may:

- (a) uphold all or any part of the findings and sanction(s) recommended by the investigation committee;
- (b) uphold all or any part of the findings of the investigation committee and impose a lesser sanction(s) than that recommended; or
- (c) return the matter to the investigation committee for further consideration with instructions regarding the matters to be addressed.

In deciding what sanctions are appropriate for committing misconduct in research, scholarship or creative work, the CEO or designee should consider the seriousness of the misconduct including, but not limited to, the degree to which the misconduct: (a) was intentional, knowing or reckless; (b) was an isolated event or part of a pattern; and (c) had significant impact on the academic record, research subjects, other researchers or creative artists, institutions or the public welfare.

5.3.2 If the sanction(s) is less than termination or expulsion, the decision of the CEO or designee shall be final unless the member has specifically provided for an appeal in its rule(s) relating to misconduct in research, scholarship and creative work.

5.3.3 If the CEO or designee chooses to terminate the employment of the respondent, the respondent may request a hearing before the member's committee established in accordance with System Policy *12.01, Academic Freedom, Responsibility and Tenure*, and pursue the available means of appeal following such a hearing, as necessary (in cases where the respondent is a faculty member), or mediation as provided by System Regulation *32.01.02, Complaint and Appeal Process for Nonfaculty Employees* (in cases where the respondent is a staff member). If the CEO or designee chooses to expel a student respondent, the student respondent may request a hearing in accordance with the member's applicable student disciplinary rule(s).

## 6. PROCEDURES APPLICABLE TO INVESTIGATIONS

In conducting an investigation under this regulation, the member shall follow the guidelines described in this section. All such procedures must be conducted in a manner that ensures fairness and protects the rights of all parties to the greatest extent possible.

### 6.1 Written Notification

If the CEO or designee determines that an investigation is necessary, the CEO or designee will so notify the respondent in writing. The notice shall indicate upon what grounds the determination was made and shall include a copy of the member's rule(s) relating to such investigation including, if appropriate, a copy of this regulation. Either simultaneously with this notice or as soon thereafter as reasonably possible, the respondent shall be provided with written notice containing the names of the investigation committee members.

## 6.2 Witness Interviews Recorded

All witness interviews shall be recorded. Transcripts of recorded testimony shall not be made unless requested by either party or by the chair of the investigation committee. Requests for transcripts should identify the portion of the recording that is specifically sought and only that portion will be transcribed. The cost of transcription shall be borne by the requesting party.

## 6.3 Representation

The respondent may be accompanied by counsel of his or her own choosing. Counsel may advise the respondent, but may not question witnesses or otherwise take part in the proceedings. Respondent, on the advice of counsel, may submit questions to the committee chair. Respondents are expected to speak for themselves. An attorney from the Office of General Counsel may serve as counsel to the committee.

## 6.4 Testimony

As far as reasonably possible, witnesses shall be allowed to give narrative testimony and shall answer questions from any committee member. Testimony may be received by means of an amplified telephone conversation (e.g., a speakerphone) which permits all persons present at the time to hear and take part in the testimony as if the witness were in the room. It is the responsibility of the chair to see to it that witnesses are given a fair opportunity to be heard and to explain their statements in order to give the committee the benefit of their knowledge regarding the matter under investigation. The rules of civil procedure and evidence as recognized in Texas do not apply to this proceeding. The governing standard for all evidence shall be fundamental fairness.

## 6.5 Examination of Record

On request, the respondent shall be provided with access to the recording or transcript of all interviews, all documents and other tangible evidence considered by the committee.

## 6.6 Proceedings

All proceedings of the committee shall be closed.

## 6.7 Finding of Misconduct in Research, Scholarship or Creative Work

A finding of misconduct in research, scholarship or creative work requires that:

- (a) there be a significant departure from accepted practices of the relevant research community;
- (b) the misconduct be committed intentionally, knowingly or recklessly; and
- (c) the allegation be established by a preponderance of the evidence.

## 6.8 Records

All tape recordings, written documents, computer records, photographs and other fixed information generated by or reviewed in the course of an inquiry or investigation shall be treated as confidential and shall not be released to any party other than the respondent, the complainant and officials having a need to know, including officials of the state and federal governments, unless required by law.

## 6.9 Findings

The findings of the committee, along with any recommended sanction(s), shall be forwarded in writing to the CEO or designee and the respondent in accordance with the time limits established by this regulation.

## 7. OTHER CONSIDERATIONS

- 7.1 If the conclusion of an investigation is that the respondent did not commit misconduct in research, scholarship or creative work, the member will develop a reasonable plan to restore the respondent's reputation and research capabilities.
- 7.2 Members shall take reasonable steps to protect complainants who make an allegation of misconduct in research, scholarship or creative work in good faith.
- 7.3 If it is determined that the complainant made allegations of misconduct in research, scholarship or creative work in bad faith, the complainant may be subject to disciplinary action.

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## Related Statutes, Policies, or Requirements

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[42 CFR, Part 50](#)

[42 CFR, Part 93](#)

[45 CFR, Part 689](#)

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## Member Rule Requirements

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A rule is required to supplement this regulation. See **Regulation Summary** section.

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## Contact Office

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System Office of the Vice Chancellor for Research  
(979) 458-6000