

SYSTEM REGULATION

15.99.03 Ethics in Research and Scholarship

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1. PREFACE

- 1.1 The credibility of academic research and scholarship depends critically on the integrity with which it is designed, conducted, documented, and communicated. As institutions of higher education committed to the advancement of scholarship, the System and each of its components are responsible for promoting academic practices that encourage honesty and scientific integrity, and develop rules and procedures for dealing with allegations or other indications of fraud or serious misconduct. All members of the institutional community, including students, staff, faculty, and administrators share the responsibility for developing and maintaining ethical standards of research and scholarship and detecting abuse of these standards.
- 1.2 Academic research and scholarship must be conducted under the highest standards of honesty and integrity and all data, procedures, and findings will be properly and thoroughly documented. The credibility and long-term reputation of the faculty, staff, and each institution 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.
- 1.3 This regulation addresses allegations of misconduct in research and scholarship at components of the System and applies to both nonfunded and funded research, regardless of the funding source. Each System component shall adopt its own rules for handling allegations of scientific misconduct consistent with the terms of this regulation.

2. DEFINITIONS

- 2.1 Ethical standards - guidelines for the conduct of research and scholarship that emphasize honesty, accuracy, and completeness in designing, carrying out, and reporting academic research.
- 2.2 Research – includes all basic, applied, and demonstration research in all fields of science, engineering, and mathematics. This includes, but is not limited to, research in economics, education, linguistics, medicine, psychology, social sciences, statistics, and research involving human subjects or animals.

- 2.3 Research record – the record of data or results that embody the facts resulting from scientific inquiry, and includes, but is not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.
- 2.4 Misconduct in research or scholarship - fabrication, falsification, or plagiarism in proposing, performing, reviewing, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.
- 2.5 Fabrication – making up data or results and recording or reporting them.
- 2.6 Falsification – 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.
- 2.7 Plagiarism – the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.
- 2.8 Designated officer - an institutional official designated by the CEO of the component to be responsible for carrying out this regulation.
- 2.9 Inquiry – the assessment of whether the allegation has substance and if an investigation is warranted.
- 2.10 Investigation – the formal development of a factual record, and the examination of that record leading to dismissal of the case or to a recommendation for a finding of misconduct in research and scholarship or other appropriate remedies.
- 2.11 Complainant - individual(s) who initiates the process described in this regulation by informing a designated official of possible misconduct in research and scholarship.
- 2.12 Respondent - individual(s) who is the subject of information provided by a complainant. This term includes staff and faculty members. The term also includes students except as set out below:
 - 2.12.1 If the alleged misconduct relates to course related requirements, the institution’s procedure for handling allegations of academic misconduct shall be applied, unless the alleged misconduct relates to federally funded research, either by an active federal research project or the use of data that was compiled in whole or in part with federal funds in which case the procedures set out in this regulation apply.
 - 2.12.2 If the alleged misconduct relates to the student’s degree requirements outside of course related requirements, the allegation shall be forwarded to the designated officer for handling in accordance with the institution’s procedures, unless the alleged misconduct relates to federally funded research, either by an active federal research project or the use of data that was compiled in whole or in part with federal funds in which case the procedures set out in this regulation apply.

3. DUTIES OF DESIGNATED OFFICER

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

- (1) 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;
- (2) taking precautions to ensure impartiality of those involved in the inquiry or investigation;
- (3) defining the scope of the investigation in accordance with the terms of this regulation, any applicable rules of the System component, and any state or federal laws, policies, or regulations which may be applicable;
- (4) 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;
- (5) in the case of research conducted with outside funds, taking interim administrative actions, as appropriate, 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
- (6) when required, notifying the appropriate outside entities of the outcome of an inquiry or investigation.

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 institution determines that an investigation is warranted, or prior to the decision to initiate an investigation if any of the following conditions exist:

- (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 complainant or the respondent, and/or co-investigators and associates, if any;
- (4) it is probable that the alleged incident will be reported publicly; and/or
- (5) 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:

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

5. PROCEDURES

5.1 Inquiry

5.1.1 An inquiry may be begun upon the receipt by the designated officer of a written complaint alleging information which, if true, would constitute misconduct in research and scholarship as defined by this regulation. The designated officer may initiate an inquiry based upon information which is sufficiently credible 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 System component, the designated officer receiving the original complaint shall notify the designated officer of the other component(s), and they shall determine which component(s) shall be responsible for dealing with the complaint. In the event that the components are

unable to determine which will handle the case, they shall request that the Vice Chancellor for Research and Federal Relations make such determination. The component(s) which 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 System component which handles the complaint shall apply with equal force to such individual with regard to his or her employment status with any other System component(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 90 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 CEO shall be informed of such fact. Simultaneous notice shall be given to the Office of General Counsel of the System 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 receipt of the inquiry report by the CEO. An investigation committee shall be appointed by the CEO or his/her designee. The committee shall have no less than three members, at least one 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 rules of procedure of the committee shall follow those established for the investigation committee described in Paragraph 6.
- 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, the

imposition of 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 committee's report of findings. The CEO or designee may:

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

In deciding what sanctions are appropriate for committing misconduct in research and scholarship, 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 research record, research subjects, other researchers, 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 component has specifically provided for an appeal in its rule and/or procedures relating to misconduct in research and scholarship.

5.3.3 If the CEO or designee chooses to terminate the employment of the respondent, the respondent may request a hearing before the institutional committee established in accordance with System Policy 12.01 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 (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 institution's applicable student disciplinary rules.

6. PROCEDURES APPLICABLE TO INVESTIGATIONS

In conducting an investigation under this regulation, the institution 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 any applicable procedures 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 investigating 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 as nearly as possible 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 for the System 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 or Scholarship

A finding of misconduct in research or scholarship requires that:

- (1) there be a significant departure from accepted practices of the relevant research community;
- (2) the misconduct be committed intentionally, knowingly, or recklessly; and
- (3) 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 or sanctions, 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 and scholarship, the component will develop a reasonable plan to restore the respondent's reputation and research capabilities.
- 7.2 The components shall take reasonable steps to protect complainants who make an allegation of misconduct in research and scholarship in good faith.
- 7.3 If it is determined that the complainant made allegations of misconduct in research and scholarship in bad faith, the complainant may be subject to disciplinary action.

CONTACT OFFICE : Vice Chancellor for Research and Federal Relations