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**Revised; 10/5/2012**

**Misconduct in Research**

**Procedures for Handling Allegations of Research Misconduct**

The purpose of these procedures is to address research misconduct, which is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

As defined in RSP 210, as an institution devoted to the creation of new knowledge through [research](http://www.asu.edu/aad/manuals/rsp/rsp004.html#research) and scholarship, ASU is committed to maintaining the integrity and truthfulness fundamental to these activities through the responsible and ethical conduct of its faculty, academic professionals, staff, and students. To this end, the university has established procedures for dealing with alleged research [misconduct](http://www.asu.edu/aad/manuals/rsp/rsp004.html#misconduct). According to RSP 210, investigation of allegations of research misconduct are handled by the research office (currently titled the Office of Knowledge Enterprise Development).

**Scope and Overview**

The policies of the University and these procedures apply to all individuals associated with ASU who are engaged in research, regardless of the source of funding for the activity.

These procedures describe three increasingly formal stages of ASU’s investigation of allegations of research misconduct, the preliminary assessment, the inquiry and the investigation. The goal is to respond to such allegations in a manner that is expeditious, thorough, competent, objective, and fair; and to maintain appropriate confidentiality, avoid conflicts of interest, and balance the interests of all involved, including the respondent, members of the University community, relevant government agencies, state government, public and private sponsors, publishers, and the general scientific community. Circumstances of a specific case may dictate deviation from the standard procedures when deemed in the best interests of the University or any research sponsor. Any change from normal procedures must ensure fair treatment to the subject of the inquiry or investigation, and must be approved by the Research Integrity Officer (RIO). In case of conflict between these procedures and federal regulations governing a particular sponsoring agency (e.g., NSF, NIH, PHS, etc.), the federal regulations will take precedence.

Some improper behaviors are not considered research misconduct, but may be considered misconduct according to other university policies. As examples, misconduct related to teaching or service missions of the University, or disputes about the conduct of research that do not reach the level of research misconduct (such as authorships disputes, attribution of credit, confidentiality, access to or interpretations of data, simple negligence, differences of opinion, or honest error) are handled by the Office of the Executive Vice President and University Provost or the appropriate academic unit rather than through these procedures. Allegations of misappropriation or other financial irregularities are handled by the Office of Knowledge Enterprise Development under applicable policies in the Academic Affairs Manual (ACD) and/or the Financial Services Manual (FIN), and state or federal law.

**Definitions**

**Complainant**: a person or persons who in good faith make(s) an allegation of research misconduct.

**Day:** calendar day.

**Deciding Official (DO):**means the institutional official who makes final determinations on allegations of research misconduct and any institutional administrative actions. At ASU, the DO is the Senior Vice-President for OKED or designee.

**Fabrication:** making up data or results and recording or reporting them.

**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 or publications.

**Good faith:**as applied to a complainant or witness, means having a belief in the truth of one’s allegation or testimony that a reasonable person could have based on the information known to the complainant or witness at the time. Good faith as applied to a committee member means cooperating with the purpose of helping an institution meet its responsibilities under these procedures. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.

**Inquiry:** the purpose of an inquiry is for preliminary information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of research misconduct has substance and if an investigation is warranted.

**Investigation:** means the formal development of a factual record and the examination of that record leading to a decision of whether research misconduct has been committed, by whom, and to what extent. The investigation may include a recommendation for other appropriate actions, including administrative actions.

**ORIA:** Office of Research Integrity and Assurance was established as a resource for investigators and the university as a whole to achieve and maintain ethical principles and compliance with federal, state, and university regulations governing research. The office acts as a liaison between the Associate Vice President for the Knowledge Enterprise Development and the various committees required to monitor and support research activities.

**Plagiarism:** means the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.

**Research:** scientific inquiry; usually a systematic experiment, study or evaluation designed to contribute to general knowledge in all fields of science, engineering, mathematics and education.

**Research Integrity Officer (RIO)** means the institutional official responsible for assessing allegations of research misconduct and for determining when such allegations warrant inquiries and for overseeing inquiries and investigations. At Arizona State University (ASU), the RIO is appointed by the senior vice-president the Office of Knowledge Enterprise Development.

**Research Misconduct:** fabrication, falsification, plagiarism, or improper practices that seriously deviate from accepted standards when proposing, conducting, or reporting research. Research misconduct does not include honest error or differences of opinion.

**Respondent:** the person or persons against whom an allegation of research misconduct is directed; or the person whose actions are the subject of the inquiry or investigation.

**Retaliation**means an adverse action taken against a complainant, witness, or committee member by ASU or a person associated with ASU in response to (1) a good faith allegation of research misconduct; or (2) good faith cooperation with a research misconduct proceeding.

**Sponsor:** any agency of the U.S. federal government, state government, private foundation, corporation, or other entity external to ASU that provides funds to support a research project, research program, or other research activity.

**General Principles**

**Confidentiality**

All university employees who, in their administrative capacity, receive reports of alleged misconduct in research shall maintain the confidentiality of the information they receive, except where disclosure is required by law or is necessary to facilitate legitimate university or Sponsor processes, including the reporting, investigation and resolution of misconduct in research allegations and implementation of any necessary administrative processes in the pertinent academic or administrative unit(s).

To the extent permitted by Arizona law, the RIO may establish reasonable conditions for the inquiry and/or investigative committee, the complainant(s) and the respondent(s) to maintain confidentiality during the pendency of the inquiry and/or investigation. The RIO may ask the involved individuals to sign a confidentiality statement, come to his or her office, or go to ORIA to review draft reports.

**Reporting Misconduct**

All university employees will report suspected instances of research misconduct. Reports of alleged violations of RSP 210 may be made to any research administrator (i.e., Research Integrity Officer or using the contact information shown on [researchcompliance.asu.edu/responsible-conduct/research-misconduct](https://researchcompliance.asu.edu/responsible-conduct/research-misconduct) or the Director of the Office of Research Integrity and Assurance (ORIA) at 480-965-2179; research.integrity@asu.edu) or academic administrator (i.e., chair, director, dean, vice provost, provost) or the University hotline at 1-877-786-3385 or http://cfo.asu.edu/audit-hotline.

The University prohibits retaliatory acts by a supervisor or colleagues against an employee who makes a good faith allegation of research misconduct.

A University employee accused of research misconduct may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice at his or her personal expense.

**Cooperation with Inquiries and Investigations**

All employees and students associated with ASU are required to cooperate with the inquiry or investigation committee and other institutional officials in the review of allegations and the conduct of inquiries and investigations. All employees and students associated with ASU have an obligation to provide relevant evidence to the inquiry and investigation process to the RIO or other institutional officials on misconduct allegations and to maintain confidentiality until a final determination is released.

**Interim Administrative Actions and Notification of Special Circumstances**

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal funds and equipment. In the event of such a threat, the RIO will, in consultation with other University officials and the sponsor, if applicable, take appropriate interim action to protect against any such threat.

**Sequence of Handling Allegations of Research Misconduct**

**Preliminary Assessment**

The RIO is responsible for promptly assessing the reported incident and for determining if it constitutes a valid allegation of research misconduct. The RIO will consider whether the allegation(s) fall within the definition of research misconduct and is sufficiently credible and specific so that preliminary information gathering and preliminary fact-finding can be conducted through the inquiry process to determine whether the allegation has substance and if an investigation is warranted. If so, the RIO will generally initiate an inquiry, however, if the evidence presented for the allegation is extensive, the RIO may elect to proceed directly to initiating an investigation. Where a Sponsor notifies the University of alleged research misconduct, the RIO may elect to proceed directly to initiating an investigation.

**Sequestration of the Research Records**

As a part of an inquiry, the RIO is responsible for ensuring that all relevant original research records, documents and materials are promptly secured.

**Inquiry: Committee Appointment**

When deemed necessary, the RIO will appoint an inquiry committee, which should consist of one or more members with relevant experience and without a conflict of interest with the respondent or complainant.

The RIO will notify the respondent of the allegation(s), informing the individual that an inquiry is being undertaken, of the relevant procedures and the membership of the inquiry committee.

The respondent has seven days to challenge, in writing, the inquiry committee's membership based on actual bias or conflict of interest. The RIO will determine whether an actual bias or conflict of interest exists. If so, the RIO will replace the challenged member with a qualified alternate.

**Inquiry Initiation and Charge Letter**

Once the inquiry committee has been finalized, the RIO will direct the committee to initiate the inquiry with a charge letter. The charge letter describes the allegation(s), procedures, required report, and the time limits.

The respondent will be invited by the RIO to promptly submit information defending him/herself against the allegations.

The inquiry phase should be completed as promptly as possible and in most cases, within 60 days of the charge letter by submission of a report from the inquiry committee to the RIO. If more than 60 days is necessary to complete the inquiry, then the RIO will notify the relevant parties.

**Inquiry Procedures and Inquiry Committee Report**

The inquiry committee will review the allegation(s) and any material submitted by the respondent. The committee may request additional materials or conduct interviews. The RIO and ORIA will be available to answer procedural questions and assist the committee throughout the inquiry.

The inquiry committee report shall be delivered to the RIO and contain the following information: (1) the name and position of the respondent; (2) a description of the allegation(s) of research misconduct; (3) listing of sponsored support involved, including, for example, grant numbers, grant applications, contracts, and publications listing sponsor support, if applicable; (4) a description of the evidence examined; (5) the basis for recommending whether the allegation(s) warrant(s) an investigation; and (6) the committee’s recommendation on whether an investigation into the allegation(s) is warranted.

An investigation is warranted if the allegation(s) fit(s) the definition of research misconduct and preliminary information-gathering indicates that the allegation(s) may have substance.

The RIO will provide a copy of the draft inquiry report to the respondent and the complainant, and invite the respondent and the complainant to comment in writing. Comments must be provided within seven days, unless the RIO grants an extension. Any comments will be included in the administrative record. The RIO will pass these comments to the inquiry committee, which has seven days (unless an extension is granted by the RIO) to determine whether to revise or augment its report, or, indicate to the RIO that the committee is not revising the inquiry report.

**Institutional Decision and Notification**

1. Decision by the DO:

 The RIO will deliver the inquiry committee report and any comments to the DO, who will determine in writing whether an investigation is warranted. This ends the inquiry process.

1. Notifications of decision to investigate:

 The RIO and ORIA will notify any relevant sponsors, relevant ASU administrators, and the respondent within 30 days following the decision by the DO. Complainant(s) will be notified of the inquiry decision, will be given the opportunity to read the inquiry committee report.

1. Documentation of a decision not to investigate:

 If the DO determines that an investigation is not warranted, the RIO and ORIA will notify any relevant sponsors, relevant ASU administrators, the respondent and the complainant. ORIA will maintain records of the inquiry that are sufficiently detailed to permit later assessment of why an investigation was not conducted for a period of seven years following the date of notification to the parties. These records will be provided to sponsors, if requested.

**Conducting the Investigation: Principles and Burden of Proof**

The purpose of the investigation is to develop a factual record by exploring the allegation(s) 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 allegation(s).

A finding of research misconduct requires that:

1. There be a significant departure from the conventions of the relevant research community.
2. The misconduct be committed intentionally, knowingly or recklessly.
3. The allegation be proven by a preponderance of evidence.

Burden of Proof: The University has the burden of proof for a finding of research misconduct.

The respondent has the burden of proving by a preponderance of evidence any affirmative defenses raised. The respondent also has the burden of proving by a preponderance of evidence any mitigating factors relative to recommended administrative actions to be taken following a research misconduct investigation.

**Sequestration of Research Records and Notifications**

The RIO will promptly sequester any additional, pertinent research records that were not sequestered previously. The sequestration should occur before or at the time the respondent is notified that an investigation has begun.

The respondent, and if relevant, the sponsor, will be notified of the allegations to be investigated.

**Investigation: Committee Appointment**

The RIO appoints an investigation committee, which may be the same as the inquiry committee. No member may have an actual conflict of interest or bias in the case. Committee members must be able to act impartially and should have the necessary expertise by education, training and experience to fairly evaluate the evidence presented in the allegation(s). The RIO will notify the respondent of the proposed membership of the investigation committee. The respondent may submit a written objection to any appointed member of the committee based upon actual bias or conflict of interest, which must be submitted within seven days of the date of notifications. The RIO determines whether an actual bias or conflict of interest exists. If so, the RIO will replace the challenged member with a qualified alternate.

The RIO will invite the respondent to promptly submit evidence defending him/herself against the allegation.

**Initiation of the Investigation with the Charge Letter**

Once the investigation committee has been finalized, the RIO will initiate the investigation with a charge letter to the committee. The charge letter should describe the allegation(s), procedures, and required report elements and time frame. The investigation should be completed as promptly as possible, and in most cases, within 120 days of the date the investigative charge letter is issued. If more than 120 days is necessary to complete the investigation, the RIO will notify all relevant parties.

An investigation by the investigation committee may include, as needed, the gathering of information obtained from any source, including interviews with individuals who may have information concerning the allegations as set forth in the charge letter and the gathering and review of documents (electronic and/or hard copy) as appropriate.

If, during the period of the investigation, additional information becomes available that could substantially change the subject matter of the investigation or would suggest additional respondents, the committee will notify the RIO. The RIO is responsible for determining if it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

**Draft Investigation Committee Report**

The committee prepares a draft investigation report with assistance from the RIO and ORIA.

The report will contain:

1. A description of the allegation(s) and identification of the respondent(s).
2. Description of any relevant sponsor support.
3. Reference to or descriptions of the policies and procedures used.
4. A detailed record of the evidence examined.
5. A Statement of Findings: For each allegation, provide a finding of whether research misconduct did or did not occur, and if so:
	1. Identify whether the misconduct is fabrication, falsification, or plagiarism and who is responsible.
	2. Indicate whether a preponderance of evidence establishes the misconduct was intentional, knowing, or reckless and a significant departure from the conventions of the relevant research community.
	3. Summarize the evidence and analysis that supports the conclusion.
	4. Indicate whether any publication or proposal requires a correction or retraction.
	5. Any recommended actions (such a publications that might require corrections, ethics training, revocation of P.I. status, etc.)

 **Comments on the Draft Investigation Report and Access to Evidence**

The RIO will provide the respondent with a copy of the draft report for comment, as well as supervised access to all evidence used by the committee. The respondent must provide any comments on the draft report within 14 days of receiving the draft report.

The complainant will be provided with the draft report, or those portions of the report that address the complainant's role and opinions. The complainant must provide any comments about the draft report within 14 days of receiving the draft report.

The RIO will inform the respondent and complainant that the draft report is confidential, and may establish reasonable conditions to ensure that confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.

The RIO will provide the received comments to the investigation committee, who will consider this input. The committee may elect to revise or augment its report based on the comments from the respondent or complainant, or may inform the RIO that it is not making any change the investigation report. Any submitted comments will be made part of the administrative record.

**Decision by the Deciding Official**

The RIO and ORIA shall work with the investigation committee to finalize the investigation report and transmit it to the DO.

The DO will determine in writing whether the institution accepts, rejects or modifies the investigation report, its findings, and the recommended institutional actions. If this determination varies from the findings and recommendation(s) of the investigation committee, the DO will, as part of his/her written determination, explain the basis for rendering a decision different from the findings and recommendation(s) of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis. The final determination of the DO constitutes the final institutional decision.

**Notifications**

The DO is responsible for providing written notification to the respondent, complainant, RIO, ORIA and other relevant ASU administrators of the final decision on the investigation. The DO may accomplish this through electronic mail or regular first class mail. The RIO and ORIA will work together to 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 RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies, including submissions of the final report to sponsors.

**Appeal**

The respondent may appeal the findings of research misconduct through the Sr. Vice President for Knowledge Enterprise Development to the Office of the Provost. The appeal must be in writing and state the grounds why the factual finding(s) and /or determination(s) should not be sustained. The written appeal must be submitted within 30 days of the date of the written notification of the outcome of the investigation to the respondent.

**Finding of Misconduct and Adjudication**

If the investigation concludes that misconduct has occurred, the DO will turn the matter over to the appropriate academic administrative office, which will be responsible for pursuing appropriate disciplinary action. The investigation report and file will be available for review by those academic administrators in identifying appropriate disciplinary action. OKED may also initiate research-specific administrative actions such as requiring training, revocation of Principle Investigator status, etc.

**Other Considerations**

**Retaliation**

Retaliation in the context of reporting misconduct in research occurs when an adverse action is taken against an individual for engaging in protected activity. Protected activity consists of: (1) making a complaint about alleged research misconduct and/or (2) testifying, assisting or participating in any manner in an investigation or other proceeding related to the complaint. Adverse actions that are reasonably likely to deter a complaining individual or others from engaging in protected activity are prohibited.

An individual believing that he or she has been subjected to retaliation in violation of this procedure should report the matter immediately to the RIO. The RIO will 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.

**Restoration of the Respondent’s Reputation**

If the University finds no misconduct, after completing any required consultation with a sponsor and after consulting with the respondent, the RIO will direct the appropriate administrative officials to undertake reasonable efforts to restore the respondent’s reputation.

**Allegations Not Made in Good Faith**

When appropriate, the RIO will determine whether the complainant’s allegations of research misconduct were made in good faith. If it is determined by the RIO that an allegation was not made in good faith the matter will be referred to the DO. The DO will determine whether any administrative action should be recommended or taken against the complainant.

**Record Retention**

When a case is closed, the ORIA will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RIO or the investigation committee. The records will be maintained for seven years or as required by law, after completion of the case to permit later assessment of the case.