



## Ohio Administrative Code Rule 3339-15-09 Misconduct in research.

Effective: December 6, 2018

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This policy statement is adapted from, and affirms, a statement on the subject prepared by the association of american universities, August 22, 1988.

### (A) Introduction

Misconduct in university research undermines the research enterprise and is harmful to the university community, the research community generally, and the public. Institutions such as Miami university have the responsibility not only to promote a research environment that opposes such misconduct in research, but also to establish policies and procedures that deal effectively with allegations or evidence of misconduct. This policy statement deals primarily with the second imperative, and outlines Miami university's procedures for handling allegations of misconduct.

Miami university's process for reviewing allegations of misconduct in research involves three stages as specified by federal regulations: inquiry, investigation and resolution. The overall principles which guide the institutional review process are as follows:

- (1) Universities have a responsibility to provide vigorous leadership in the pursuit and resolution of all charges of misconduct in research. Universities should take care, however, that the process pursued to resolve allegations of misconduct not damage research itself.
- (2) Universities should treat all parties with justice and fairness, and be sensitive to the reputations and vulnerabilities of all parties. The process for resolving questions of research misconduct should focus on the substance of the issues; personal conflicts or affiliations between colleagues should not obscure the facts. The integrity of the process should be maintained by avoiding to the greatest extent possible any real or apparent conflict of interest.
- (3) Procedures should be expeditious, well documented and should preserve the highest attainable degree of confidentiality compatible with an effective and efficient response to questions of research



misconduct.

(4) Universities should recognize and discharge their responsibilities after resolving allegations of misconduct internally, to all involved individuals, and externally, to the public, the sponsors of research, the research literature and the research committee.

#### (B) Scope

This policy applies to all research conducted at Miami university, including that supported by or for which an application has been submitted to the public health service. It applies to all individuals at Miami university engaged in research, including faculty, trainees, technicians and other staff members, students, fellows, guest researchers, and collaborators.

The policy will normally be followed when an allegation of possible misconduct is received by an institutional official. Particular circumstances in an individual case may dictate variations from the normal procedure deemed in the best interests of Miami university and the sponsoring agency. Any change from normal procedures also must ensure fair treatment to the respondent in the inquiry or investigation. Any significant variation must be approved in advance by the provost.

#### (C) Definitions

(1) Research misconduct. Research misconduct means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the research community for proposing, conducting or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.

(2) Inquiry. Inquiry is the first stage of the review process. 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 in research to warrant an investigation. An inquiry is not a formal hearing; its purpose is instead to separate allegations deserving of further investigation from frivolous, unjustified, or clearly mistaken allegations. The purpose is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible.



(3) Investigation. Investigation is a stage of review that will be initiated only after an inquiry leads to a finding that further review is called for. The purpose is to explore the allegations more fully and determine whether there has indeed been research misconduct. The investigation may uncover information which justifies broadening the scope of the review beyond the initial allegation.

(4) Complainant. Complainant is the person making an allegation of research misconduct.

(5) Respondent. Respondent is the person accused of research misconduct.

(D) Confidentiality.

The university will afford the affected individual(s) confidential treatment to the maximum extent possible permitted by law, and it will protect, to the maximum extent possible, the privacy of those who in good faith report apparent misconduct.

To ensure the safety and security of any written documents associated with an allegation of research misconduct, a single case file will be maintained by the dean of the graduate school.

Members of committees involved in any inquiry or investigation shall be informed of the confidential nature of the proceedings.

(E) Reporting allegations.

Allegations of research misconduct shall be reported to the dean of the graduate school. The dean will promptly notify the provost of allegations. If the dean has a conflict of interest in the case, the allegation shall be pursued by another administrator designated by the provost.

The dean of the graduate school shall consult in confidence with any individual who comes forward with an allegation of research misconduct or with a question regarding possible misconduct. If the individual raising the question does not wish to make a formal allegation, but the dean believes there is sufficient cause to warrant an inquiry, the matter may, at the discretion of the dean, still be pursued. In such a case, there is no "complainant" for the purpose of this policy. Whether an



allegation can be reviewed effectively without the involvement of the complainant depends upon the nature of the allegation and the evidence available. Cases which depend upon the observations or statements of the complainant may not be able to proceed without the open involvement of that individual. Other cases may be able to rely upon documentary evidence alone, permitting the complainant to remain anonymous.

(F) Inquiry procedures.

(1) The inquiry process may be handled with or without an inquiry committee, at the discretion of the dean of the graduate school. The committee, if one is used, shall be appointed by the dean and shall have three members. It is the responsibility of the dean to ensure to the best of his or her ability that the inquiry is conducted fairly and, if a committee is involved in the inquiry, that the committee members have no real or apparent conflicts of interest, are unbiased and have an appropriate background for assessing the issues being raised.

(2) Upon the initiation of an inquiry, the dean of the graduate school shall notify the respondent in writing within a reasonable period of time. The respondent shall be informed of the charges and the processes that will be followed, and shall be given copies of any written documents which support the allegations. The respondent shall be entitled to advice by legal counsel. If the dean decides to involve a committee in the inquiry, the members shall be appointed and convened. The dean and the committee members shall be empowered to receive and review relevant documents, interview involved faculty, students and staff, seek additional information as necessary, and, when necessary or appropriate, seek advice from experts outside of the institution.

(3) After determining that an allegation falls within the definition of misconduct in research, the dean of the graduate school must ensure that all original research records and materials relevant to the inquiry and investigation are immediately secured. If the case involves research supported by or for which an application has been submitted to the public health service, the dean of the graduate school may consult with the office of research integrity service for advice and assistance in this regard.

(4) Upon initiation of an inquiry, the respondent shall be invited to present a written response to the allegations. The respondent shall be expected to cooperate in providing the necessary materials to conduct an inquiry. Uncooperative behavior may result in immediate implementation of an



investigation, as described in this paragraph, or in disciplinary action.

(5) During the inquiry phase, the university shall respect any privacy guarantees previously given to research subjects.

(6) The inquiry phase shall normally be completed within sixty calendar days of notifying the respondent of the initiation of the inquiry. If the dean of the graduate school or the inquiry committee anticipates that the sixty calendar day deadline cannot be met, the reasons for the delay and the progress to date shall be outlined in a written document that will be part of the case file. The complainant and respondent shall receive copies of the progress report.

(7) The completion of an inquiry shall be marked by a written report which shall state the names and titles of the committee members and experts, if any; the allegations; the agency supporting the research, if any; a summary of inquiry process used; a list of the research records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether the investigation is warranted; and the committee's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. The complainant and respondent shall be given copies of the draft report, and they shall have fourteen days to provide comments. Any comments that the complainant or respondent submits will become part of the final report and record. Based on the comments, the inquiry committee may revise the report as appropriate. If an investigation is to be pursued and the research is sponsored by an outside agency, the agency shall also be notified on or before the date the investigation begins. If the case involves research supported by or for which an application has been submitted to the public health service, this notice will be given to the office of research integrity.

(8) If, upon inquiry, an allegation is found to be unjustified, the involved parties shall be notified. The fact that an inquiry has taken place and the identity of the respondent shall remain confidential to the extent permitted by law, unless this right is explicitly waived by the respondent, and the case file shall be secured within the office of the dean of the graduate school. Such record will be kept for a period of six years after completion of the inquiry, and it will be provided to authorized personnel of the United States department of health and human services upon request if the case involved research supported by or for which an application has been submitted to the department of public health service. If, upon inquiry, an allegation is found to be unjustified, the university shall undertake



diligent efforts, as appropriate, to restore the respondents reputation.

(9) The university shall undertake diligent efforts to protect the position and reputation of the complainant. However, if an allegation is found to be unjustified and to have been maliciously motivated, disciplinary action against the complainant may be pursued.

(G) Investigation procedures.

(1) If the inquiry stage results in a finding that an investigation is warranted, the investigation shall begin within thirty days of the completion of the inquiry. The dean of the graduate school shall appoint a five-person investigative body. Members may be chosen from within or outside the university. It is the responsibility of the dean to ensure to the best of his or her ability that the investigation is conducted fairly, and that the individuals chosen to serve on the investigative committee have no real or apparent conflicts of interest, are unbiased, and have an appropriate background for assessing the issues being raised. The committee members shall be empowered to receive and review relevant documents, interview involved faculty, staff and students, seek additional information as necessary, and, when necessary or appropriate, seek advice from experts outside of the institution. The respondent shall have the right to test all evidence against him or her. The committee may hold a hearing for this purpose.

(2) The dean of the graduate school shall notify the complainant and respondent promptly in writing that an investigation has been initiated, and shall invite the respondent to submit a written response to the allegations. The respondent shall be entitled to advice by legal counsel. The respondent shall be expected to cooperate in providing the necessary materials to conduct the investigation. Uncooperative behavior may result in immediate disciplinary action.

(3) Upon the initiation of an investigation, the university may, if necessary, act to protect the health and safety of research subjects, patients, and students. The university shall also respect any privacy guarantees previously given to research subjects.

(4) The investigation phase shall normally be completed within one hundred twenty calendar days, with the initiation of the investigation being defined as the first meeting of the investigation committee. This period includes conducting the investigation; preparing the report of findings;



making the draft report available to the respondent for comment (fourteen days); revising the report, if appropriate, in light of the comments from the respondent; submitting the report to the provost for approval; and submitting the report to any agency sponsoring the research project in question. If the dean of the graduate school or the investigative committee anticipates that the one hundred twenty calendar day deadline cannot be met, the reasons for the delay and the progress to date shall be outlined by the dean in a written document that will be part of the case file. The complainant, the respondent, and any agency sponsoring the research shall receive copies of the progress report. If the case involves research supported by or for which an application has been submitted to the public health service, the dean of the graduate school shall submit a request for an extension to the office of research integrity. The request shall include the reasons for the delay, an interim report on the progress to date, an outline of what remains to be done, and an estimated date of completion. The complainant and the respondent shall receive copies of the extension request.

(H) Resolution, disciplinary procedures, and appeal

(1) The completion of an investigation shall be marked by a written report from the investigative committee to the dean of the graduate school which indicates whether research misconduct within the meaning of this policy has or has not taken place. The complainant, respondent, and any agency sponsoring the research shall receive copies of the final report. If the respondent comments on the report, the comments may be made part of the final report and the record.

(2) If an allegation is, by means of the investigation phase, found to be unjustified, the involved parties shall be notified. The investigation and the identity of the respondent shall be held in strictest confidence to the extent permitted by law, unless this right is explicitly waived by the respondent, and the case file shall be secured within the office of the dean of the graduate school. Such record will be kept for a period of six years after completion of the investigation, and it will be provided to authorized personnel of the United States department of health and human services upon request if the case involved research supported by or for which an application has been submitted to the public health service. If the allegation is found to be unjustified, the university shall undertake diligent efforts, as appropriate, to restore the respondents reputation.

(3) The university shall undertake diligent efforts to protect the position and reputation of the complainant. However, if an allegation is found to be unjustified and to have been maliciously



motivated, disciplinary action against the complainant may be pursued.

(4) If the investigation leads to a finding of research misconduct, the dean of the graduate school shall refer the matter for possible disciplinary action as described below.

(5) In the case of a finding of research misconduct, disciplinary action will be pursued in accordance with university policy. The following list of possible university sanctions is illustrative: removal from a particular research project; special monitoring of future work; letter of reprimand; suspension; salary reduction; rank reduction; and termination of employment. The university shall also have the discretion to take administrative actions such as informing other affected parties, including co-authors, co-investigators or collaborators in the research; editors of journals in which the research was published; sponsoring agencies and funding sources with which the individual has been affiliated; and professional societies with which the individual has been affiliated.

(6) In the case of a finding of research misconduct, the case file shall be secured within the office of the dean of the graduate school. Such record will be kept for a minimum of six years after completion of the case.

(I) Other considerations

(1) The following provisions apply in cases involving research supported by or for which an application has been submitted to the public health service.

(a) The university will take interim administrative actions, as appropriate, to protect federal funds and ensure that the purposes of the federal financial assistance are carried out.

(b) The university will notify the office of research integrity within twenty-four hours of obtaining evidence of criminal violations. In addition, the university will notify the office of research integrity if it ascertains as a result of an allegation of research misconduct that any of the following conditions exist:

(i) There is an immediate health hazard involved;





- (ii) There is an immediate need to protect federal funds or equipment;
  - (iii) There is an immediate need to protect the interests of the complainant or the respondent as well as the respondents co-investigators and associates;
  - (iv) There is a probability that the alleged incident is going to be reported publicly.
- (c) If the university plans to terminate an inquiry or investigation for any reason without completing all requirements set forth in this policy, the dean of the graduate school will submit a report of the planned termination to the office of research integrity, including a description of the reasons for the proposed termination.
- (d) The dean of the graduate school will promptly advise the office of research integrity during the course of an investigation of any developments that may affect current or potential funding for the respondent or that the department of health and human services needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.
- (e) After completion of the case, the dean of the graduate school will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to him or her or to the committees. The dean of the graduate school will keep the file for a minimum of six years after the completion of the case and furnish it to the director of the office research integrity, if the file is requested.
- (f) In the case of a finding of research misconduct, the final report to the office of research integrity will include the policies and procedures under which the investigation was conducted, how and from whom information relevant to the investigation was obtained, the findings, and the basis for the findings. The report will include actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of the administrative and disciplinary actions taken by the university.