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RESEARCH MISCONDUCT

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RESEARCH MISCONDUCT

I. Introduction

Any compromise of the ethical standards required for conducting academic research cannot be condoned. Even though breaches in such standards are rare; they must be dealt with promptly and fairly by all parties in order to preserve the integrity of the research community. The objectives of this regulation are to maintain the integrity of University research, to conform to the expectations of extramural sponsors or regulators, and to describe the University's procedure for handling allegations of research misconduct.

In order to preserve the integrity of the overall process of assessing potential misconduct, the process involves multiple steps. The process begins with an allegation, which shall first be assessed to determine whether it meets the criteria for research misconduct. If those criteria are met, there shall be an inquiry into the allegation to determine whether there are enough facts to warrant an investigation. If an investigation is warranted, a formal examination and evaluation of all relevant facts shall determine if the allegation of misconduct is valid. If the allegation is valid, the process shall be concluded with an adjudication procedure.

II. Definition of Research Misconduct

- A. "Research misconduct" is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.
- B. Fabrication is making up data or results and recording or reporting them.
- C. Falsification is 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.
- D. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- E. In cases of allegations involving activities submitted to or supported by a federal agency, the definition and procedures for research misconduct specified in the agency's regulations will apply.

III. Confidentiality

All parties involved in the inquiry and investigation shall strive to maintain confidentiality of information to the extent consistent with a fair and thorough process and as allowed by law, including applicable federal and state freedom of information and privacy laws.

IV. Reporting Alleged Research Misconduct

A. Concerns about potential research misconduct should be communicated immediately to the senior administrator of the area in which the alleged incident(s) occurred e.g. the dean of the college or school or the director of a research institute or center. Concerns may also be reported to the Office of Research Integrity (ORI) which will refer them to the appropriate administrator.

B. The allegation of misconduct shall be submitted in writing to the appropriate senior administrator and the ORI. If the informant declines to make a written allegation, and the senior administrator believes that there is sufficient cause and sufficient evidence to warrant an inquiry, he or she shall submit a written allegation to the ORI.

V. Absence of the Subject of the Allegation

Should the subject of the allegation leave the University before the case is resolved, the senior administrator on behalf of the University, when possible, shall continue the examination of the allegation and reach a conclusion. The University shall cooperate with the process of another institution to resolve such questions to the extent possible under state and federal law.

VI. Interim Administrative Action

As provided by federal regulations, at any stage in the process of inquiry, investigation, formal finding and disposition, the University may take interim administrative action to protect the welfare of human or animal subjects of research or to prevent the inappropriate use of funds.

VII. Extramural Assurance and Reporting requirements

A. If required by a funding agency, the Vice President for Research (VPR) or his or her designee shall submit written assurance that the institution is in compliance with the agency's requirements for handling allegations of misconduct.

B. If the research is supported by an extramural funding agency, the VPR or his or her designee is responsible for ensuring compliance with the applicable agency's reporting requirements. The senior administrator shall keep the VPR informed of any developments which must be reported to the agency.

VIII. Statute of Limitation

A. Because of the difficulties of investigating old claims and unfairness to the subject of the allegation, allegations regarding research data exceeding six (6) years after publication or submission of the final report on a project for which data was collected,

will not be pursued unless circumstances indicate that the alleged conduct was not reasonably discoverable earlier.

B. Exceptions to the six (6) year limitation are as follows:

1. Subsequent use by the subject of allegation by continuation or renewal of any incident of alleged research misconduct that occurred before the six (6) year limitation through the citation, republication or other use for the potential benefit of the subject of allegation of the research record that is alleged to have been fabricated, falsified or plagiarized.

2. If the appropriate funding agency or the University, in consultation with the funding agency, determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.

IX. Inquiry

A. Allegation Assessment

Upon receiving a written allegation of research misconduct, the senior administrator shall promptly assess the allegation to determine whether the alleged conduct falls within the definition of research misconduct and whether there is sufficient information to initiate an inquiry and document the determination. The senior administrator shall notify the VPR and the appropriate Executive Vice President or Provost, Legal Counsel, and the ORI that a written allegation has been received.

B. Inquiry Initiation

The senior administrator or designee shall initiate an inquiry if, after consultation with Legal Counsel and the Office of Research Integrity (ORI), the allegation is determined to be sufficiently credible and specific so that potential evidence of research misconduct may be identified. The senior administrator shall notify the VPR and the appropriate Executive Vice President or Provost, Legal Counsel, and the ORI that an inquiry has been initiated. If appropriate, the original research records should be sequestered from the subject of the allegation and other individuals such as co-authors, collaborators or informants. The senior administrator and his or her designee(s) shall use the advice of Legal Counsel on procedures and other matters pertaining to the inquiry.

C. Notifying the Subject of the Inquiry

The senior administrator or his or her designee shall inform in writing the individual(s) about whom allegations have been made and any involved collaborators that an inquiry has been initiated and shall present to them a statement of the allegations as soon as

possible. This statement shall include information on the nature of the allegations and the focus of the inquiry and shall inform the individual(s) of the opportunity for the subject of the inquiry to provide comments and other relevant information to the inquiring body. This statement shall also inform them of (a) their right to be represented by an attorney in preparing and/or giving their response in this and all subsequent phases of the inquiry and (b) that under no circumstances shall the person, against whom an allegation is made, attempt to discover the identity of the person who raises the allegation. Also, this statement shall indicate there can be no actions that are, or could be perceived as, retaliatory against a person who raises an allegation or is thought to have raised an allegation, or against inquiry committee members or witnesses.

D. Inquiry Body

In consultation with the VPR and ORI, the senior administrator shall appoint a minimum of two tenured faculty members for the inquiry body, with appropriate scientific or scholarly expertise on the issues in question. Precautions against real or perceived conflicts of interest shall be taken when selecting individual(s) to conduct the inquiry. The senior administrator shall identify one member as chair of the body.

E. Inquiry Process

In the inquiry stage, factual information is gathered by the inquiry body and reviewed to determine if an investigation is warranted. The inquiry is designed to separate allegations deserving further investigation from unsubstantiated or frivolous allegations. In conducting the inquiry, the inquiry body shall consult with the subject of the allegation and provide the subject of the allegation with the opportunity to respond to the allegations. Once sufficient information is obtained to decide whether an investigation is warranted, the inquiry process shall conclude and an inquiry report shall be submitted to the senior administrator. The inquiry body shall complete the initial inquiry and draft a report within sixty (60) calendar days. Any extension of the inquiry beyond the sixty (60) calendar days requires a request for an extension, which includes an explanation for the delay, to be submitted to the senior administrator and approved by the VPR.

F. Inquiry Report

The inquiry body shall submit a written report summarizing the findings of the inquiry to the senior administrator. The subject of the allegation shall have the opportunity to comment on the draft report and the comments will become part of the final record. Any comments must be submitted in writing within thirty (30) calendar days of the date on which the subject of the allegation receives the draft report. The VPR, Legal Counsel and the ORI shall review the report and the subject's comments. The senior administrator in consultation with the VPR shall make the determination of whether findings from the inquiry justify conducting an investigation. The inquiry report,

comments from the subject of the allegation, and the determination by the senior administrator shall constitute the final inquiry determination. The final inquiry determination of the senior administrator shall be completed within thirty (30) calendar days of receiving final comments from the subject of the allegation on the inquiry process. If required, the VPR shall inform the agency sponsoring the research of the findings of the inquiry. A copy of the final inquiry determination shall be provided if requested by the agency.

X. Investigation

A. Investigation Initiation

If findings from the inquiry provide sufficient basis for conducting an investigation, the senior administrator shall request the Provost or appropriate Executive Vice President to initiate an investigation as soon as possible but no later than thirty (30) calendar days after receipt of the final inquiry determination. The VPR shall notify the applicable federal regulatory or funding agency, if any, that an investigation is warranted, within thirty (30) calendar days of initiation of the investigation and provide the agency a copy of the inquiry report. The VPR may also notify other non-federal funding agencies, if any, that an investigation is warranted, within a reasonable time or in accordance with the agency's policies.

B. Notifying the Subject of the Investigation

The Provost or appropriate Executive Vice President shall inform, in writing, the individual(s) about whom allegations have been made and any involved collaborators that an investigation is to be conducted and shall present to them a statement of the allegations. This statement shall include information on the nature of the allegations and the focus of the investigation and shall inform those being investigated of the opportunity to provide comments and other relevant information to the investigative body. This statement shall also inform the individual(s) of his or her right to be represented by an attorney in preparing and/or giving his or her response in this and all subsequent phases of the investigation. Also, this statement shall indicate there can be no actions that are, or could be perceived as, retaliatory against a person who raises an allegation or is thought to have raised an allegation, investigation committee members or witnesses.

C. Investigative Body

In consultation with the VPR and the ORI, the Provost or appropriate Executive Vice President shall appoint an investigative body to conduct a formal examination and evaluation of all relevant facts to determine whether research misconduct has taken place. The investigative body shall include at least three (3) tenured faculty members. Other members may be appointed to provide necessary expertise. Precautions against real or

perceived conflicts of interest shall be taken in appointing the investigative body. The subject of the investigation shall be given the opportunity to comment in writing on the membership of the investigative body. The Provost or appropriate Executive Vice President shall inform the University's Legal Counsel and the chief administrative officer of the organizational unit of each individual under investigation and of any other organizational unit in which the event may have occurred that an investigation is under way.

D. Investigation Process

The investigative body shall conduct a formal examination and evaluation of all relevant facts to determine if the allegations of misconduct are valid. The investigative body shall use advice of the Legal Counsel on procedures and other matters pertaining to the investigation. The investigative body may call witnesses, sequester and examine research data (both published and unpublished) and other evidence, and seek expert counsel both inside and outside the University to aid in the investigation. The investigative body shall prepare a written summary of each interview conducted or have a transcript of the interview prepared, and a copy shall be provided to the interviewed party for comment. The investigative body shall keep the Provost or appropriate Executive Vice Presidents, VPR and the ORI apprised of the investigation. The investigative body shall complete its investigation including submission of the investigation report in the shortest feasible period of time but no later than one hundred and twenty (120) calendar days after its formation. If the investigative body is unable to complete the investigation in time, a request for extension which includes an explanation for the delay shall be submitted to and approved by the VPR.

E. Finding of Research Misconduct

A finding of research misconduct requires that the events constitute research misconduct as defined in Section II, above, and that:

1. There is a significant departure from accepted practices of the relevant research community; and
2. The misconduct is committed intentionally, or knowingly, or recklessly; and
3. The allegation is proven by a preponderance of evidence.

F. Investigation Report

1. All subjects of the investigation shall be afforded the opportunity to comment upon the report and have such comments included in the formal record

of the investigation. Any comments shall be submitted in writing within thirty (30) calendar days of the date on which the subjects of the investigation received the draft report.

2. At the completion of the investigation, the investigative body shall submit its findings, comments from the subjects, and recommended institutional actions in writing to the Provost or appropriate Executive Vice President who shall provide a copy to the subjects of the investigation, VPR, Legal Counsel, and the ORI.

3. The Provost or appropriate Executive Vice President shall provide the person(s) who raised the allegation with those portions of the report that address their role and opinions in the investigation, and their written comments, if any, shall be included in the formal record.

4. Based on the preponderance of the evidence, the Provost or appropriate Executive Vice President in consultation with the VPR shall make the decision whether or not to accept the investigation report, its findings, and the recommended institutional actions. The VPR shall provide the sponsoring agency, if any, with a copy of the final investigation determination upon request by that agency.

XI. Documentation

At the conclusion of an allegation assessment, inquiry or investigation, the senior administrator or Provost or appropriate Executive Vice President shall forward all documentation pertaining to the allegation assessment, inquiry or investigation to the ORI. The ORI shall maintain documentation for seven (7) years and shall be responsible for providing the documentation to the VPR, Legal Counsel, and appropriate federal agency upon request.

XII. Restoring Reputation

A. If the findings of an inquiry fail to confirm an instance of misconduct, all participants in the inquiry, including the VPR and ORI, shall be so informed in writing by the senior administrator.

B. If the findings of an investigation fail to confirm an instance of misconduct, all participants in the investigation, including the senior administrator and the VPR, shall be so informed in writing by the Provost or appropriate Executive Vice President.

C. The senior administrator, Provost or appropriate Executive Vice President shall undertake all practical and reasonable efforts to protect and restore the reputation of the individual(s) alleged to have engaged in research misconduct but against whom no

finding of research misconduct shall be made, if requested by the individual(s) and as appropriate

D. The senior administrator, Provost or appropriate Executive Vice President shall undertake reasonable and practical efforts to protect or restore the position and reputation of the individual(s) who in good faith, made an allegation of research misconduct, if requested by the individual(s) and as appropriate.

XIII. Formal Findings, Actions Following the Investigation and Disposition

A. If the findings of the investigation substantiate the allegations of research misconduct, the Provost or appropriate Executive Vice President in cooperation with the VPR and the senior administrator shall determine which institutional actions are appropriate. This decision is final.

B. Appropriate institutional action taken against those faculty, staff, postdoctoral scholars, graduate students, and undergraduate students directly involved in misconduct consistent with the University of Kentucky Governing Regulations and Administrative Regulations and staff and student policy manuals include, but are not limited to, the following:

1. Verbal warning;
2. Special monitoring of future work;
3. Formal reprimand which is filed in the employee or faculty member's personnel file;
4. Termination of grant support;
5. Termination of fellowship support;
6. Adjustment of research space allocation;
7. Adjustment of salary;
8. Mandated actions to redress the consequences of the misconduct;
9. Withdrawal of specific privileges;
10. Removal from a special position of privilege or prestige (such as a titled professorship or an endowed chair);
11. Mandated restitution of funds that were used to perform the research in which the conduct occurred;
12. Partial or total suspension from duties for a specified time with or without concomitant loss of pay; or
13. Termination of employment or student status.

C. The outcome of the investigation may be communicated to parties internal or external to the University such as:

1. Sponsoring or funding agencies;

2. Appropriate legal and governmental authorities;
3. Co-authors, co-investigators, collaborators;
4. Editors of journals in which fraudulent research or erroneous findings were published or officials in charge of conferences in which fraudulent research or erroneous findings were presented;
5. Professional licensing boards;
6. Editors of journals or other publications, other institutions, sponsoring agencies and funding sources with which the individual has been affiliated in the past; or
7. Professional societies.

D. The senior administrator is responsible for ensuring that the appropriate institutional actions are enforced.

References:

The University of Kentucky's administrative regulation regarding research misconduct is based on the OSTP (Office of Science and Technology Policy) "The Federal Policy of Research Misconduct" which became effective December 6, 2000. DHHS (Department of Health and Human Services) adopted the policy on June 15, 2005 (42 CFR 93). The OSTP policy has been adopted by multiple federal agencies and other federal agencies are in the process of adopting it with the goal that all government agencies that fund research use the policy.