

Principles and Procedures for Dealing with Allegations of Research Misconduct

Principles

Maintaining high ethical standards in the conduct of research is an important University responsibility imposed by public trust and is essential to the discovery of new knowledge and the reputation of research and teaching institutions. Misconduct or apparent misconduct in research challenges the integrity of the research enterprise at large and threatens to undermine public trust in university research.

This document aims to promote timely, effective and fair responses to allegations of research misconduct. These procedures are designed to cover such problems as: fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. These terms are defined as follows: (a) fabrication - making up data or results and recording or reporting them; (b) 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; (c) plagiarism - the appropriation of another person's ideas, processes, results, or words without giving appropriate credit. Research misconduct does not include honest error or honest differences of opinion.

A finding of research misconduct made under this part requires that:
There be a significant departure from accepted practices of the relevant research community; and
The misconduct be committed intentionally, knowingly, or recklessly; and
The allegation be proven by a preponderance of the evidence.

This document addresses allegations of research misconduct among anyone participating in research conducted by NYU including but not limited to faculty, staff, and students. When potential allegations of research misconduct broaden to include allegations regarding students, fact finding into the allegations regarding students shall proceed in accordance with the procedures outlined in this document, and findings of fact related to misconduct of students shall be forwarded to the relevant School disciplinary committee.

These principles and procedures do not attempt to legislate guidelines for the conduct of research. Through the dissemination of this policy, researchers should be sensitized to their responsibilities in meeting the highest standards in selecting collaborators, gathering, evaluating and reporting data, supervising junior colleagues, authoring publications, disclosing suspicions of misconduct, cooperating in any authorized investigation, and maintaining the highest standards of ethical behavior in the conduct of research and a general climate of intellectual honesty.

In dealing with allegations of research misconduct and following the procedures outlined here, employees are urged to keep in mind the following basic principles:

1. That research, teaching, and patient care should conform to the highest standards;
2. That members of the academic community have a responsibility to report what they believe to be research misconduct and to cooperate in investigations of research misconduct; this duty of cooperation includes the obligation to provide all documentation reasonably requested by those charged with investigatory responsibilities herein;

3. That allegations of research misconduct are to be investigated promptly, thoroughly, objectively and fairly; and

4. That the rights and reputation of all parties involved in allegations of research misconduct, including those suspected of research misconduct and those who report research misconduct in good faith, are to be protected from retaliation..

Compliance with Laws and Regulations

The procedures to be followed by the University pursuant to this Policy are subject to the requirements of the law. The University will comply with all applicable federal, state and city laws and regulations with respect to Research Misconduct.

While this Policy applies to all research conducted at the University, whether or not federally funded, it is based on the Public Health Service Policy dated May 17, 2005. Should a case arise in the future at the University involving an allegation of Research Misconduct where a different federal sponsoring agency's funds have been requested or received, any conflict between the PHS Regulations and that agency shall, as required, be governed by said agency's regulations.

Procedures

I. Reporting Allegations

A. An initial report of suspected research misconduct should be brought to the attention of a faculty member, the Director of Undergraduate or Graduate Studies of the school or the Director of Compliance, either anonymously or in person. Those individuals shall inform the Dean of the school in which the respondent is employed. Allegations involving the Dean should be brought directly to the Provost. In any instance involving an allegation against a Dean, the word "Dean" as used below shall be deemed to mean the Provost or his or her designee. Likewise in any instance involving an allegation against the Provost, the word "Dean" as used below shall be deemed to mean the President or his/her designee.

II. Initial Inquiry

The Dean shall determine whether to authorize a preliminary inquiry or to resolve the allegations through informal processes without further inquiry, and ensure that such resolution is consistent with the appropriate agencies. When reviewing an allegation of research misconduct, the Dean shall determine: (1) if the factual allegation falls within the definition of research misconduct as set forth in "Principles" above and (2) is sufficiently credible and specific so that potential evidence of research misconduct may be identified. If the allegation does not meet both of these requirements, the Dean shall dismiss the complaint and set forth the reasoning therefore in a memorandum maintained for a period of seven (7) years. If the allegation does meet both the above-stated requirements, the Dean shall begin an Inquiry in the manner set forth as follows. The Dean shall appoint at least three persons, with a maximum of two members from the accused (designated as the respondent) respondent's or accuser (designated as the complainant) complainant's department. They shall make a determination as to whether or not a formal investigation should be carried out. The individuals appointed to undertake the inquiry must be fair, objective and impartial and must possess, where required, the competence to understand the research in question.

At the time of or before the beginning of the inquiry the individuals accused, the respondents shall be advised in writing of the accusation and of the existence of the preliminary inquiry. The inquiry committee must, on or before the date on which the respondent is notified or the inquiry begins, whichever is earlier, and whenever additional items become known or relevant, promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding. The identities of the complainant(s), the respondent(s), the inquiry and its findings shall not otherwise be disclosed by the investigators, except as necessary to carry out the assignment, or as otherwise provided herein. Upon initial inquiry the committee will prepare a written report. The form of such report shall conform to the sponsoring agency's requirements. The preliminary inquiry must be completed within sixty (60) calendar days of its initiation, unless circumstances warrant a longer period. If more than sixty (60) days is taken, the record must include documentation of the reasons for the extension of time. Alternatively if the sponsoring agency requires a different time frame, the inquiry will follow the agency's requirements.

B. Based on the recommendations of the inquiry committee which the Dean may either accept or overrule, the Dean shall either dismiss the allegations for lack of merit, or initiate a formal investigation. Should the Dean decide not to investigate, sufficiently detailed documentation of the inquiry to permit a later assessment must be kept for at least seven (7) years after the termination of the inquiry. If the charges are dismissed for lack of merit, the Dean shall give notice of that fact to the respondent and complainant in writing. Should the Dean determine that a formal investigation is warranted, the Dean shall notify the complainant, the respondent, and the department chair, as well as the Compliance Officer of the university. In addition, the Provost will undertake any other notifications, as required by the sponsoring agency, and, if a pending work is in question, the publisher or any other recipient organization.

III. Formal Investigation and Action

A. If the Dean has determined that formal investigation is warranted, he or she will promptly appoint a five member ad hoc committee. Such committee may decide that the investigation will encompass the review of all research with which the individual has been involved. The individuals appointed must be fair, objective and impartial and must possess sufficient competence to understand the research in question. The committee should include one or more persons with expertise in the area in question (such experts may include persons outside the University) and persons from at least two different schools of the University. The committee will exclude any person having a conflict of interest with, or prior involvement in, the substance of the respondent's research. When required by federal regulations, the Provost shall notify the appropriate Federal Office(s) as required. If the respondent leaves the institution or refuses to cooperate, the investigation will continue according to the prescribed procedures.

B. In conducting the investigation, the committee shall comply with such procedures as may have been promulgated by the Provost of the University and as may be required by the regulations of the sponsoring agency. Because the findings of this committee will serve as the factual basis for any subsequent disciplinary proceedings against the respondent, the procedures will provide an impartial and unbiased investigation and a full and fair opportunity for the person to be informed of and defend against the charges.

Any such procedures shall include, at the minimum, the following provisions:

1. Right of the respondent to a clear written statement of the charges, such notice to be provided within a reasonable time after determining an investigation is appropriate, but before the investigation begins;
2. Right of the respondent to appear before the committee and present testimony on his or her behalf;
3. Right of the respondent to be accompanied by counsel when appearing before the committee;
4. Right of the respondent to a copy of a tape-recording which shall be made of all testimony; however, the committee shall deliberate and may discuss procedural matters in executive session;
5. Right of the respondent to examine the committee's file of non-confidential documents, receive a draft of the committee's final report, and comment upon it in writing and/or by appearing before the committee to present arguments in rebuttal;
6. Right of the respondent to a finding determined by majority vote on the basis of a preponderance of evidence;
7. Right of the respondent to a prohibition on all committee members, additional staff, and secretarial assistants from disclosing committee proceedings at any time, except as otherwise provided by these rules or required by law.

C. The committee's charge will be to determine the facts and make a recommendation to the Dean. The committee shall conduct its investigation with all deliberate speed and submit to the Dean a written report of its findings of fact, conclusions and recommendations, along with the entire file on the case. A copy of the report shall also be submitted to the respondent by certified mail, with return receipt. The respondent may, if he or she desires, make a statement in writing within ten (10) working days of delivery of the report, and this statement shall be considered by the Dean in conjunction with the committee report. If the Dean finds the report of the committee deficient in any major respect, the Dean may remand the report to the same committee for further consideration or may appoint a new committee. The Dean will then either accept the conclusions of the committee or overrule them, citing the reasons for such an action. The Dean will note the reasons for the additional considerations in a memorandum to the committee, which will be kept for seven (7) years.

The outcome of the fact-finding shall be reported to any organization given prior notice under the provisions of section II-B.

D. If the investigation determines that the allegations are without merit and the Dean agrees, he or she shall make all reasonable efforts to protect or restore the reputation of the respondent. If the Dean finds that allegations were made in bad faith, he or she shall recommend appropriate action against the complainant(s) in accord with the relevant disciplinary regulations of the University.

E. If the Dean agrees that the alleged misconduct is substantiated by a thorough investigation,

and determines that 1) research misconduct has occurred by significant departure from accepted practices of the research community for maintaining the integrity of the research record, 2) the misconduct was committed intentionally, or knowingly, or in reckless disregard of accepted practices and 3) the allegations have been proven by a preponderance of evidence, he or she shall recommend sanctions including but not limited to the following: dismissal, suspension, reprimand, limitation on grant submissions, suspension or monitoring of research. The Dean shall submit this recommendation to the disciplinary committee or administrator appropriate to the employment status of the accused:

1. The procedure to be followed in the case of faculty misconduct is as outlined in Title IV of the University's Statement in Regard to Academic Freedom and Tenure, (http://www.nyu.edu/oaa/faculty_hbk.html) unless the Dean recommends dismissal of a tenured faculty member, in which case he or she shall follow University rules set forth in Title III of the University's Statement in Regard to Academic Freedom and Tenure.

2. In the case of students implicated in an inquiry into misconduct, the outcome of fact-finding and the Dean's finding that allegations are substantiated, shall be reported to the discipline committee (or its equivalent) of the School in which the student is enrolled.

3. In the case of all other employees implicated in an inquiry of misconduct, the outcome of fact-finding and the Dean's finding that allegations are substantiated shall be referred to the appropriate Dean or Vice President for action in accordance with applicable procedure.

F. Because of the special and technical nature of the facts and issues in these cases, the hearing committees provided for in Titles III and IV of the University's Statement in Regard to Academic Freedom and Tenure (http://www.nyu.edu/oaa/faculty_hbk.html), the disciplinary committees established pursuant to the various school disciplinary procedures, or the Dean or Provost responsible for disciplinary action with respect to other employees shall not re-find the facts, but shall treat the report of the formal investigative committee, established in section III-A of this report, as the factual basis for their proceedings. If the Title III or IV hearing committee or, in the case of students or non-faculty employees, the relevant discipline committee or administrator, finds the report to be inadequate, the discipline committee or administrator shall refer the report back to the Dean of the affected school for clarification or augmentation.

G. When a decision reached by the hearing committee under Title III or IV or other appropriate person or committee in the case of a non-faculty employee or student has become final, the Dean shall notify the individuals and agencies listed in section IIB of the decision. In addition, if alleged misconduct is substantiated, the dean shall notify editors of any other affected journals and publications as well as institutions, individuals, and sponsoring agencies with which the individual has been affiliated.

H. Any appeal shall proceed under the appropriate provisions of Title III or IV (as amended) or other applicable rule in the case of a non-faculty employee or student.

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