

## **POLICY ON INVESTIGATIONS OF SCIENTIFIC MISCONDUCT**

California State University, Fresno endorses the belief that honesty and integrity in the pursuit and dissemination of knowledge are two of the most important values of the academy. Accordingly, it is expected that faculty, staff, students and research managers shall maintain high standards of ethical behavior in the conduct of scientific research. Accuracy, validity and reliability should be the hallmarks of research results generated in the scientific enterprise. To this end, the university requires that all researchers be aware of and abide by the code of ethics established by their professions or disciplines.

This document spells out the policies and procedures for reporting and investigating allegations of scientific misconduct, and for the required notifications to external agencies, including federal agencies, of such allegations and investigations. This policy addresses only scientific misconduct as defined below. Allegations of misconduct outside the scope of this policy should be directed to the appropriate administrator for investigation.

Sponsoring agencies expect that the university will exercise the primary responsibility for ensuring the integrity of and the accountability for the scientific research conducted by faculty and for addressing misconduct in science. Integrity of the research process requires adherence by scientists to honest and replicable methods. Compliance with the regulations of these agencies requires that the university provide assurances on (a) how allegations of scientific misconduct in research or research training (and applications for it) will be addressed and (b) how the university fosters a research environment and promotes education that discourages scientific misconduct.

The standard is one of fairness and truthfulness whereby the intent to deceive or reckless disregard for the truth is evident. Misconduct comes at a high price for scientists and for the public. Cases of misconduct in science involving fabrication, falsification, and plagiarism breach the trust that allows scientists to build on the work of other researchers and permits policymakers and others to make decisions based on scientific evidence and judgment. Hence, it is important for scientists to demonstrate accountability that accompanies investment in research.

University policy prohibits the illegal and unethical behavior, described herein as “scientific misconduct.” The university also prohibits retaliation against any individual, who, acting in good faith, reports or provides information about suspected misconduct or against a respondent who has been cleared of scientific misconduct.

## I. DEFINITIONS

1. "Scientific misconduct" is defined as fabrication, falsification, plagiarism, or other practices that deviate from those commonly accepted within the scientific community for proposing, conducting, evaluating, or reporting research. It does not include honest error, or honest differences in interpretations or judgments of data.

Examples of scientific misconduct may include but are not limited to practices that:

- a) misappropriate intellectual property or contributions of others,
  - b) intentionally impede the progress of research,
  - c) risk corrupting the scientific record,
  - d) compromise the integrity of the scientific process.
2. The "complainant" is defined as the individual who makes an allegation of scientific misconduct to the university.
  3. "Dean" is defined as a college/school dean, the Dean of the Division of Graduate Studies, the Dean of Library Services, or the Dean of Students.
  4. An "inquiry" is defined as preliminary information-gathering and preliminary fact-finding to determine whether an allegation of misconduct has substance. The outcome of an inquiry is a determination as to whether or not a formal investigation should be conducted.
  5. An "investigation" is defined as a formal examination and evaluation of relevant facts to determine whether or not scientific misconduct has taken place.
  6. The "respondent" is defined as the individual who is accused of scientific misconduct.

## II. REPORTING RESPONSIBILITY

1. Individuals who believe or have knowledge that an act of scientific misconduct is occurring or has occurred shall notify the appropriate dean in writing.<sup>1</sup> The written allegation(s) shall include a description of the nature of the perceived misconduct and any evidence in support of such claims.
2. The dean shall immediately notify the Provost and Vice President for Academic Affairs (hereinafter Provost) of any allegations that are under inquiry.
3. The Associate Vice President for Grants and Research (AVPGR) shall advise all levels of review with regard to research issues, including government policies and regulations of the relevant funding agency.
4. The Associate Vice President for Academic Personnel shall be consulted with regard to due process rights of the respondent and other procedural questions.

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<sup>1</sup> Allegations of misconduct against a dean or other administrator should be reported directly to the Provost or President, as appropriate.

### III. CAUTIONS AND ASSISTANCE

The gathering and assessing of information in case of alleged scientific misconduct can be extremely difficult. Confidentiality is essential to protect the academic and professional reputations of those involved, as well as the interest of the public and of anyone who might be harmed by the alleged misconduct. Every attempt should be made to assure that any inquiry or investigation is done in a timely, fair, objective and thorough manner. In the course of conducting inquiries or investigations, the following provisions are applicable.

1. Expert assistance, including from outside the university, should be sought as necessary to conduct a thorough and authoritative evaluation of all evidence.
2. Precautions should be taken to avoid real or apparent conflicts of interest on the part of those involved in the inquiry or investigation.
3. Care should be taken in the preparation and maintenance of all documentation relevant to the inquiry or investigation.
4. The anonymity of accused individuals and, if they wish it, the confidentiality of those who in good faith reported the alleged misconduct, should be protected to the maximum extent possible, and care should be taken to protect their positions and reputations. Except as required in the reporting provisions of this document, only those directly involved in an inquiry or investigation should be aware that the process is being conducted or have any access to information obtained during its course.
5. The university shall take all reasonable steps to ensure that neither any panel member nor any other person involved in the procedures is either biased against the accused person(s) or has a conflict of interest.

### IV. PRELIMINARY INQUIRY<sup>2</sup>

1. Upon receipt of an allegation of scientific misconduct,<sup>3</sup> the dean shall immediately begin an inquiry and shall so inform the Provost and the Associate Vice President for Grants and Research. The purpose of the inquiry is to determine whether a formal investigation is warranted.
2. Should the dean have a real or apparent conflict of interest with the case, the provost shall designate another dean to conduct the preliminary inquiry.

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<sup>2</sup> Should the investigation involve the Public Health Service or the National Science Foundation, the respective guidelines contained in the Code of Federal Regulations should be consulted. For the Public Health Service, the reference is 42 CFR 50 et seq. For the National Science Foundation, the reference is 45 CFR 689.1 et seq. See also Section VII below.

<sup>3</sup> If a case comes from an agency that has already conducted an inquiry, the university reserves the right to conduct a separate inquiry after reviewing the materials supplied by the agency and the findings reached by the agency.

3. The inquiry shall be conducted by the dean and governed by the procedures identified below.
  - a) The respondent<sup>4</sup> shall be informed in writing of the allegations and provided an opportunity to respond within seven (7) days of receiving a copy of the allegations before the inquiry proceeds.
  - b) The dean shall collect and review all pertinent information.
  - c) At a minimum, the complainant and the respondent shall be interviewed separately by the dean.
  - d) Those individuals who may have information related to the matter should be identified and interviewed.
  - e) Each person interviewed should be provided with a written summary of his/her interview and any comments should be appended to the summary, or reflected in a revised summary if the interviewer agrees.
  - f) A written draft report, including a recommendation as to whether or not a formal investigation is appropriate, is to be prepared by the dean. The dean's report shall include
    - (i) a description of the policies and procedures followed,
    - (ii) a list of relevant documents and other evidence reviewed,
    - (iii) a clear statement of the recommendation and the basis for it.
  - g) The respondent shall be provided a copy of the draft report and provided seven (7) days to comment in writing to the dean before the inquiry proceeds.
  - h) After considering the written comments of the respondent (if any), the dean's written report, including a recommendation as to whether or not a formal investigation is appropriate, shall be forwarded to the Provost. A copy of the written comments of the respondent (if any) shall be attached to the report.
  - i) The dean's report shall be submitted to the Provost no later than sixty (60) days after receipt of the allegation. If this time frame is not possible, the reasons are to be documented in writing and the Provost so informed.
4. The dean's report shall describe the information reviewed; provide a clear statement indicating whether or not a formal investigation is recommended; and the reasons for the recommendation. The recommendation shall be based on the preponderance of evidence available to the dean. The report shall be accompanied by all appropriate documentation.
5. Based upon the final report and the recommendation submitted by the dean, the Provost shall decide if a formal investigation is to be conducted.

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<sup>4</sup> Pursuant to CSU policy, the respondent has the right to representation.

6. If the decision of the Provost is to accept a recommendation of the dean not to proceed to a formal investigation, all records of the investigation, including any documents and reports, shall be retained in the office of the dean for three (3) years.
7. The dean shall take interim action as necessary to protect federal and/or other funds and the purposes of the grant or contract involved. The dean shall inform the Provost of such actions.

## **V. REPORTING OF HAZARDS AND VIOLATIONS**

Notwithstanding any other provision in these procedures, and regardless of the stage at which the matter is being handled, the Provost and the Associate Vice President for Grants and Research shall be informed immediately if any of the following circumstances are discovered:

- a) an immediate health hazard;
- b) an immediate need to protect federal or university funds or equipment;
- c) an immediate need to protect the complainant; the respondent; or witnesses;
- d) likelihood that an alleged incident will be reported publicly;
- e) a reasonable indication of possible criminal violation of federal or state law.

## **VI. FORMAL INVESTIGATION<sup>5</sup>**

1. If the Provost decides that a more detailed, formal investigation is warranted, the Provost shall appoint a Peer Review Panel of three investigators after consultation with the Chair of the Personnel Committee of the Academic Senate, the Chair of the Academic Policy & Planning Committee, the Associate Vice President for Grants and Research and the Associate Vice President for Academic Personnel.
2. The investigators shall be tenured Professors who have been involved in scientific research and/or grant administration.
3. The Peer Review Panel shall elect a chair from its membership.
4. Should the provost have a real or apparent conflict of interest with the case, the president shall designate another individual to act in place of the provost.
5. The investigation by the Peer Review Panel shall commence within fourteen (14) days of the appointment of the Panel.
6. The investigation shall be governed by the procedures identified below.
  - a) the complainant and the respondent shall be interviewed.

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<sup>5</sup> Should the investigation involve the Public Health Service or the National Science Foundation, the respective guidelines contained in the Code of Federal Regulations should be consulted. For the Public Health Service, the reference is 42 CFR 50 et seq. For the National Science Foundation, the reference is 45 CFR 689.1 et seq. See also Section VII below.

- b) Those individuals who may have information related to the matter should be identified and interviewed.
  - c) The investigators shall examine all pertinent documentation, including but not limited to financial records; research data and proposals; publications; correspondence; and memoranda of telephone calls.
  - d) Written summaries of each interview should be provided to the individual being interviewed, and any comments should be appended to the summary, or reflected in a revised summary if the interviewer agrees.
  - e) All significant issues should be pursued until the investigators are reasonably certain that all necessary and available information has been compiled.
  - f) In addition to the interview summaries and comments by the respondent and the complainant, the report shall contain;
    - (i) a description of the policies and procedures followed;
    - (ii) the names, dates and times when interviews were conducted;
    - (iii) a list of relevant documents and other evidence reviewed;
    - (iv) a clear statement of the findings and the basis for them;
    - (v) and a statement whether or not the Provost should consider taking an appropriate personnel action without specifying what that action might be.
  - g) The respondent shall be provided a copy of the draft report and provided seven (7) days to comment in writing to the Peer Review Panel. These comments shall be appended to the report submitted to the Provost.
  - h) After considering the written comments of the respondent (if any), a written report, including any recommendations, shall be forwarded to the Provost.
  - i) A written report shall be submitted to the Provost no later than ninety (90) days from the appointment of the Peer Review Panel. If this time frame is not possible, the reasons are to be documented in writing and the Provost so informed as quickly as possible.
7. The written report submitted to the Provost by the Peer Review Panel shall describe the information reviewed; include a summary of the interviews that were conducted, and state the reasons for the conclusions reached. The conclusions shall be based on the preponderance of evidence available to the panel. The report shall be accompanied by all appropriate documentation including any written comments of the respondent. the panel shall provide the respondent with a copy of the report.
8. If termination of the investigation is contemplated by the Provost prior to the completion of the report by the Peer Review Panel, this should be discussed with the peer review panel and with the Associate Vice President for Grants and Research.

9. The respondent shall be provided seven (7) days to submit written comments and any additional documentation to the provost.
10. The Provost shall review the conclusions and recommendations of the peer review panel and shall make a final decision regarding the matter. The Provost may, at his/her discretion either accept, modify, or reject the conclusions and recommendations of the peer review panel. Before reaching a final decision concerning any modification or rejection, however, the Provost will explain the rationale for the decision in a written communication to the peer review panel and will consider the peer review panel's response. The Provost may also meet with the respondent. The Provost shall complete the report with a letter to the peer review panel and the respondent, confirming, modifying or rejecting the peer panel's findings.
11. If the Provost determines that a personnel action, including discipline, is warranted, appropriate steps shall be taken consistent with the provisions of the Collective Bargaining Agreement and university policies. In cases relating to the Public Health Service, the Public Health Service shall be notified of any pending disciplinary action within thirty days of the issuance of the final report.

## **VII. NOTIFICATION TO EXTERNAL AGENCIES**

The University will comply with the requirements and regulations of its funding agencies. Section VIII below reflects those requirements for the U. S. Public Health Service (PHS) and the National Science Foundation (NSF). In any particular situation and for other agencies, other criteria may apply, and the appropriate administrator is advised to review current regulations and requirements.

1. Under circumstances not involving Public Health Service or other regulated funding agencies, the Provost, in consultation with the Associate Vice President for Grants and Research and the Director of the Foundation, will make the decision whether information about the charges and their disposition will be disclosed publicly or to specific parties, including the research sponsor.
2. This decision will normally be made upon the conclusion of the final report. However, if required by urgent circumstances, such a disclosure may be made at any time. Absent such urgent need, the university will not make interim reports to outside agencies unless required by external regulation.
3. Where false or misleading data has been published as the result of scientific misconduct, the university may disclose relevant information to affected scholarly and/or scientific publications or agencies.

## **VIII. PUBLIC HEALTH SERVICE (PHS) AND NATIONAL SCIENCE FOUNDATION (NSF) NOTIFICATION REQUIREMENTS**

PHS requires annual assurances from the university of compliance as well as aggregated information on allegations, inquiries, and investigations. Further, in accord with PHS and NSF regulations, in cases involving research funded by either of those agencies, the funding agency will be informed in the following situations. Except as specifically described at the end of this section, the following notifications to external agencies will be made only by the Associate Vice President for Grants and Research on behalf of the Provost, and on the basis of the information provided by the Dean / Provost.

**1. Outcome of an Inquiry**

PHS and NSF will be notified of the outcome of an inquiry of possible scientific misconduct involving funds from their agency only if that outcome includes the recommendation to conduct a full investigation. Documentation from inquiries, even those that do not recommend further investigation, will be maintained for a period of three (3) years and made available upon an agency's request.

**2. Commencement of an Investigation**

Written notification will be provided to PHS or NSF upon determination that an investigation will be conducted. This notice is to be provided on or before the commencement of the investigation, and must include all information required by the agency. In the case of PHS-funded research, this notice must include at least the following: name(s) of the accused individual(s); general nature of the allegation(s); and the PHS proposal or award number involved. Regulations provide that this information will be held in confidence to the extent permitted by law. Note, however, that although the information will not be disclosed to peer reviewers or PHS advisory committees, it may be used by the Secretary of Health and Human Services in making decisions about the award or continuation of funding.

**3. Written Request for a Time Extension**

Although PHS regulations permit 120 days for completion of the investigation and submission of the final report, CSUF requires the Peer Review Panel to consult with the AVPGR if it appears that the final report will take more than 90 days to complete.

If the investigation and determination of personnel action are likely to take more than 120 days to complete, the AVPGR will so notify PHS and provide reasons for the delay, interim progress reports, the estimated date of completion of the report, and any other necessary information. If an extension is granted, PHS may require the submission of periodic interim reports, or the agency may undertake its own investigation prior to the University's completion of its investigation.

NSF requires completion of the inquiry within 90 days, and completion of the investigation, including submittal of the final report, within 180 days. If completion of either is expected to be delayed, NSF may require submission of periodic status reports.

**4. Interim Reports**

PHS must be apprised during an investigation of facts that may affect current or potential PHS funding of the individual(s) under investigation, or that may need to be disclosed in order to ensure proper use of federal funds or protection of the public interest. Similarly, NSF requires interim reports if the seriousness of the apparent misconduct so warrants; if immediate health hazards are involved; if NSF's resources, reputation, or other interests need protecting; or if federal action may be needed to protect the interests of a subject of the investigation or others potentially affected

### 5. Early Termination of an Investigation

PHS must be notified of any decision to terminate an inquiry or investigation prior to the completion of all relevant requirements. This notice must include the reasons for such action. PHS retains the right to investigate the matter further on its own.

### 6. Final Outcome

PHS and NSF will be notified of the final outcome of an investigation involving their funded project(s), and provided with a complete copy of the final report. The final report to PHS must include a statement about the sanction (if any) to be imposed by the institution.

### 7. Special Emergency Notifications

In addition, the PHS must be informed at any stage of an inquiry or investigation if any of the following are discovered: (1) an immediate health hazard; (2) an immediate need to protect federal or University funds or equipment; (3) an immediate need to protect those making an allegation (4) a likelihood that an alleged incident is going to be reported publicly; or (5) a reasonable indication of possible criminal activity. In the case of suspected criminal activity, PHS requires notification within 24 hours.

In special emergency circumstances as defined above, the school dean should attempt to reach the AVPGR (by phone if necessary; in writing, if possible). However, each dean is authorized to make such reports directly to the agency, and to so inform the AVPGR afterwards, if, in the judgment of the dean, such action is necessary.

## IX. DETERMINATION OF PERSONNEL ACTION

The determination as to whether a personnel action, including disciplinary action, is to be imposed is governed by California law, university policies and any applicable collective bargaining agreement. In cases involving faculty unit members, personnel actions, including disciplinary action, shall be imposed by the appropriate administrator, through the processes described in the Unit 3 Collective Bargaining Agreement. Significant cases of student misconduct will be referred to the Dean, Student Affairs. Cases involving staff members will be referred to the appropriate administrator. Both PHS and NSF have the right to impose additional sanctions, beyond those applied by the institution, upon investigators or institutions, if they deem such action appropriate in situations involving funding from their respective agency.

References: National Science Foundation 45 CFR 689.1 et seq.  
Public Health Services 42 CFR 50 et seq.  
CBA Articles 11, 18, 19  
Research and the Protection of Human Subjects (APM)

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