

 UNIVERSITY of DENVER RESEARCH & SPONSORED PROGRAMS	Office of Research and Sponsored Programs
Policy: MISCONDUCT IN RESEARCH	Version date: February 1, 2016 Previous version date: April, 1, 2014
Approved by: Corinne Lengsfeld, PhD Date: 2/1/2016 Associate Provost for Research	Reviewed and Approved by: Sponsored Programs Academic Date 2/2/2016 Research Council (SPARC)

A. Definitions:

RESEARCH: Research is investigation into and study of materials, sources, and natural phenomena to establish facts and reach new conclusions. The scope includes, but is not limited to, all fields of science, engineering, mathematics, medicine, physiology and behavior (human and animal studies), social sciences, economics, education, linguistics, and the humanities.

INQUIRY: Information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

INVESTIGATION: The formal gathering and evaluation of all relevant facts to determine if misconduct has occurred.

MISCONDUCT IN RESEARCH: Fabrication, falsification, or plagiarism. It does not include honest error or honest differences in interpretations or judgments of data. A Finding of research misconduct requires that: there be a significant departure from accepted practices of the relevant research community; and the misconduct be committed intentionally, or knowingly, or recklessly; and the allegation be proven by a preponderance of evidence.

Fabrication—Fabrication is making up data or results and recording or reporting them.

Falsification—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.

Plagiarism—Plagiarism is the appropriation of another person's ideas, processes, results or words without giving appropriate credit.

B. Policy:

The issue of misconduct in scholarly activity is a matter of serious concern to universities and other research institutions, individual faculty, sponsors of research, and the general public. Serious deviations in conduct include fabrication, falsification, or plagiarism; professionally unacceptable practices in

performing research and/or reporting the results of research; and willful failure to comply with federal and other requirements.

The University of Denver requires that intellectual honesty and the highest ethical standards in research be maintained and relies primarily on the acceptance of responsibility by each member of the university community to adhere to professional standards of conduct in all research activity. In cases where charges of misconduct in research are raised, expeditious fact-finding and objective peer review in a setting of procedural fairness is essential and should be characterized, at the minimum, by prompt notification of the individual(s) who are the subject of the inquiry, protection to the maximum extent possible of the confidentiality of both the subject individual(s) and the complainant(s), and if appropriate, application of timely corrective actions, sanctions and penalties.

To ensure the aforementioned principles, the Associate Provost for Research will be the recipient of any charges of misconduct in science. The Associate Provost for Research will conduct a preliminary assessment of the charges to determine if they are appropriate for the process of academic integrity (managed by the Office of Graduate Studies), personnel grievance process (managed by Human Resources) or Misconduct in Research. If it is determined the charges best align with the Misconduct in Research policy the Associate Provost for Research will forward said charges, and delegate authority to a subcommittee of the Sponsored Programs Academic Research Council (hereinafter, SPARC or Committee) to conduct an inquiry and, if necessary, conduct an investigation and recommend action on the charges of misconduct in science. This Inquiry Committee will be composed of approximately three members of SPARC and consist of individuals with relevant backgrounds to the particular charges. This Committee will also provide advice to the institution to prevent or minimize research fabrication, falsification or plagiarism.

This Policy is intended to comply with the requirements of 42 CFR Part 50, and any such requirements that are not set forth in the Policy are hereby incorporated by reference as if fully set forth in this Policy.

Procedure:

INQUIRY:

Upon receipt of charges of misconduct, the SPARC shall send a confidential notification containing information on the charges to the subject(s) of the inquiry and his/her (their) immediate supervisor(s) if appropriate. These charges may be brought by either internal sources (faculty, staff, students) or external sources (funding agencies).

The SPARC will inquire immediately into any allegation or other evidence of possible misconduct received by it and will have 60 calendar days (unless circumstances clearly warrant a longer period) to conduct a confidential inquiry, including interviews and examination of relevant documents, and to decide whether or not sufficient evidence of fraud exists to justify an investigation and whether other University of Denver faculty or personnel were involved. A written report shall be prepared that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the inquiry. The Committee will distribute its written report and recommended actions through the Vice

Provost for Research and Provost to Department Head(s) and Dean(s) of the College of the subject(s) of the inquiry. The individual(s) against whom the allegations were made shall be given a copy of the report of the inquiry, and any comment they make on this report shall become a part of the official record of the inquiry.

Reasonably sufficient detail of the inquiry to permit a later assessment of reasons for not pursuing an investigation must be maintained for a period of 3 years after termination of the inquiry and must, upon request, be provided to authorized personnel of the Sponsoring Agency, if applicable. If the inquiry takes longer than 60 days to complete, the record of the inquiry shall include documentation of the reasons for exceeding the 60-day period. Records of the inquiry will be destroyed after the above-mentioned period of 3 years, and the subject(s) of the inquiry will be notified by the Associate Provost for Research that such action has taken place.

University policy prohibits the taking of retaliatory action against anyone for reporting or inquiring about potential breaches of University policy or for seeking guidance on how to handle suspected breaches. The identity of confidential sources will be protected to the extent consistent with the needs of an inquiry or investigation. Those individuals who provide information in good faith about questionable conduct will be protected against reprisals. The university will also seek to appropriately discipline any member of the university community who retaliates against someone who makes allegations of research misconduct, gives evidence, or participates in the proceedings.

Upon request of the agency sponsoring the research (hereinafter, Sponsor), records of the inquiry shall be provided to the Sponsor.

INVESTIGATION:

Upon recommendation of the SPARC inquiry committee, and if the Associate Provost for Research determines that findings from the inquiry provide sufficient basis for conducting an investigation. A larger investigation committee consisting of a minimum of five members of SPARC will undertake an investigation within 30 days of completion of the inquiry.

An institutional decision to initiate an investigation must be reported in writing to the Sponsor (if applicable) on or before the date the investigation begins. At a minimum, the notification should include the name(s) of the person against whom the allegations have been made, the general nature of the allegations, and the application or grant number(s) involved. While primary responsibility for the conduct of investigations and inquiries lies with the University of Denver, a Sponsor may perform its own investigation at any time prior to, during, or following an institution's investigation. **ALL DOCUMENTATION INCLUDED IN THE OFFICIAL RECORD OF THE INVESTIGATION SHALL BE AVAILABLE TO THE SPONSOR UPON ITS REQUEST.** The Associate Provost for Research shall provide all notifications to and cooperate with such federal agencies as required by the regulations found at 42 CFR Part 50 relating to institutional investigation and reporting of possible misconduct.

The investigation, which shall normally be completed within 120 days of its initiation, will include conducting the investigation, preparing the report of findings, making that report available for comment by the subject(s) of the investigation, and submitting the report to the Sponsor (if applicable).

Conducting the investigation, as mentioned above, will include examination of all documentation, including but not necessarily limited to relevant research data and proposals, publications, correspondence, and memoranda of telephone calls. Whenever possible, interviews should be conducted with all individuals involved in either making the allegations or against whom the allegations were made, as well as other individuals who might have information regarding key aspects of the allegations. Complete summaries of these interviews should be prepared and each interviewed party provided an opportunity to review his/her summary for comment or revision. The interview summaries will be included as part of the official investigatory file.

As part of the investigation process, the SPARC shall:

1. Work in conjunction with, and secure the support of, University of Denver General Counsel.
2. Secure necessary and appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence in any inquiry or investigation. Clerical support to the Committee will be provided by Office of Research and Sponsored Programs.
3. Take precautions against real or apparent conflicts of interest on the part of those involved in the inquiry or investigation.
4. Prepare and maintain the documentation to substantiate the investigation's findings. This documentation is to be made available to the Sponsor (if applicable) through the Associate Provost for Research.
5. Recommend interim administrative actions to be taken by the Associate Provost for Research, as appropriate, to protect federal funds and ensure that the purposes of the federal financial assistance are carried out.
6. Keep the Sponsor, through the Associate Provost for Research, apprised of any developments during the course of the investigation which disclose facts that may affect current or potential sponsored funding for the individual(s) under investigation, or that the Sponsor needs to know to ensure appropriate use of sponsored funds and otherwise protect the public interest.
7. Undertake diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed, and also undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

If the Committee determines that it will not be able to complete the investigation in 120 days, it must submit a written request for an extension to the Associate Provost for Research. This request must contain an explanation for the delay, an interim report on progress to date, and an estimate of the date

of completion of the report and other necessary steps. Any consideration for an extension must balance the need for a thorough and rigorous examination of the facts versus the interests of the subject(s) of the investigation and the Sponsor in a timely resolution of the matter. If the Associate Provost for Research concurs, the Associate Provost for Research shall forward the request for extension to the Sponsor (if applicable) for approval. If an extension is granted by the Sponsor, the institution must file periodic progress reports as requested by the Sponsor. If satisfactory progress is not made in the University of Denver's investigation, the Sponsor may undertake an investigation of its own.

The SPARC is expected to carry investigations through to completion, and to pursue diligently all significant issues. If the Committee plans to terminate an investigation for any reason without completing all relevant requirements under this policy, a report of such planned termination, including a description of the reasons for such termination, shall be made to the Associate Provost for Research who will then decide whether further investigation should be undertaken. The Associate Provost for Research shall forward the Committee's recommendation to the Sponsor (if applicable).

A final report will be submitted to the Associate Provost for Research, Provost, Department Head(s) and Dean(s) of the College of the individual(s) whose conduct was subject to this inquiry and investigation. The final report will describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings, and include the actual text or an accurate summary of the views of any individual(s) found to have either been engaged in, or blameless of, misconduct, as well as a description of any recommended sanctions to be taken by the institution.

The Associate Provost for Research, in concert with the Provost, Department Head(s), Dean(s) of the College, and the SPARC will make every diligent effort to restore and protect the professional reputation of any individual(s) found to be blameless of misconduct.

The Associate Provost for Research shall submit the final report to the Sponsor (if applicable), along with the disciplinary action to be taken which could include sanctions ranging from an oral reprimand by the immediate supervisor to dismissal from the University and initiation of legal proceedings. An appeal of the above action(s) may be made by the individual(s) being disciplined in accordance with the University's policy on employee grievance procedures. The University, in its sole discretion, shall decide whether sanctions are to be imposed while an appeal is pending.

Upon receipt of the final report of investigation and supporting materials, the Sponsor will review the information in order to determine whether the investigation has been performed in a timely manner and with sufficient objectivity, thoroughness and competence. The Sponsor may then request clarification or additional information and, if necessary, perform its own investigation.

In addition to sanctions that the institution may decide to impose, the Sponsor also may impose sanctions of its own upon investigators or institutions based upon authorities it possesses or may possess, if such action seems appropriate.

OTHER CONSIDERATIONS:

The Committee and the University of Denver General Counsel are responsible for notifying the Associate Provost for Research if it ascertains at any stage of the inquiry or investigation that any of the following conditions exist:

1. There is an immediate health hazard involved;
2. There is an immediate need to protect federal funds or equipment;
3. There is an immediate need to protect the safety, welfare or other interests of the person(s) making the allegations or of the individual(s) who is/are the subject of the allegations as well as their co-investigators and associates, if any;
4. It is probable that the alleged incident is going to be reported publicly; and/or,
5. There is a reasonable indication of possible criminal violation. In that instance, the institution must inform the Sponsor within 24 hours of obtaining that information.

If any of the above conditions exists and the work is sponsored, the Associate Provost for Research shall notify the Sponsor, and the University may take such immediate action as it deems necessary in order to respond to such conditions.

ADMINISTRATIVE PROVISIONS:

Subrecipients of sponsored funds awarded to the University of Denver must have an established administrative process which meets the requirements of the primary Sponsor.

Further information regarding agency-specific misconduct in science policies and procedures may be obtained by contacting the University of Denver, Office of Research and Sponsored Programs, Project Administrator assigned to the agency.