





National University of Health Sciences General Policies

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 _____ President	Date	 _____ 12/06/19		

POLICY STATEMENT

National University of Health Sciences (NUHS) expects adherence to ethical standards of practice and behavior in all institutional activities by all members of the University community, whether they be faculty, students or staff members.

Provisions exist to review instances where individuals may not have met these standards and are contained in other relevant policies of the University. Allegations of research misconduct constitute a special case, because research activity is often supported, at least in part, by external sponsoring agencies. These agencies require that institutions applying for or receiving support have a specific policy for handling allegations of misconduct in science.

I. Introduction

The principles and practices that govern the ethics of scientists and others engaged in scientific research are well recognized among scientists and those associated with them. These principles assure the validity and accuracy of the new knowledge developed by research. Thus, the members of the scientific community recognize and support the precept that persons engaged in scientific endeavors must observe these principles and practices; otherwise, the data and the conclusions drawn are suspect, and the professional's reputation is sullied and its stature diminished. Departure from these principles and practices also casts grave doubt on the integrity of the scientist, the persons associated with the scientist, and the institution involved.

A scientist is responsible for his actions and inactions. But when a scientist accepts institutional sponsorship, public support or private participation in his/her scientific work, the scientist may be called upon by the person or entity providing sponsorship, support or participation to account for lapses. This policy establishes the procedures for this accountability. Generally these procedures have four stages: (1) an inquiry to determine whether the allegation of research misconduct or related issues warrants further investigation; (2) when warranted, an investigation to collect and thoroughly examine evidence; (3) a formal finding, and; (4) appropriate disposition of the matter.

In established policies and procedures governing the disposition of allegations of research misconduct, the University has been guided by the Framework for Institutional Policies and Procedures to Deal with Misconduct in Research published by the Association of American Medical Colleges. The Framework was developed by an inter-association working group consisting of staff from the Association of Academic Health Centers (AAHC), the association of American Medical Colleges (AAMC), the Association of American Universities (AMU), the American Council on Education (ACE), the American Society for Microbiology (ASM), the Council of Graduate Schools (CGS), the Council on Government Relations (COGR), the Federation of American Societies for Experimental Biology (FASEB), the National Association of College and University Attorneys (NACUA), and the National Association of State Universities and Land Grant Colleges (NASULGC). The document was revised to reflect the advice of a review group convened by the cooperating associations, a meeting of the American Association for the Advancement of Science (AAAS)/ American Bar Association (ABA), National Conference of Lawyers and Scientists, the AUA, ACE, NASULGC Joint Committee on Health Policy, the AAU Executive Committee and the AAU Biomedical Research Committee.

Institutions which adopt the recommendations contained in the Framework meet the requirements of the United States Public Health Service (PHS) Final Rule, 42 CFR Part 93, effective May 17, 2005 regarding procedures for dealing with and reporting possible research misconduct.

II. Definitions

Whenever used in this policy, the following terms shall have the respective meanings set forth below, unless otherwise expressly stated.

Research misconduct means: Fabrication, falsification, or plagiarism, in proposing, performing, or reviewing research, or in reporting research results:

- a) Fabrication is making up data or results and recording or reporting them.
- b) 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.
- c) Plagiarism is the appropriation of another person's ideas, processes, results, or works without giving appropriate credit.
- d) Research misconduct does not include honest error or differences of opinion.

A finding of research misconduct requires that there be (a) a significant departure from accepted practices of the relevant community; (b) the misconduct be committed intentionally, knowingly or recklessly; and (c) the allegation be proven by a preponderance of the evidence.

Fraud means the deliberate misrepresentation of data.

Business Day means days in which the University is in session (that is formally scheduled class days including final examination days), excluding Saturdays, Sundays, and holidays officially recognized by the University.

Inquiry means information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

III. Confidentiality

To the extent allowed by law, the University shall maintain the identity of respondents and complainants securely and confidentially and shall not disclose any identifying information, except to: (1) those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) ORI as it conducts its review of the research misconduct proceeding and subsequent proceedings.

IV. Process for Handling Allegations of Misconduct

- A. Initiation of an Inquiry: The University's responsibility to respond to an allegation of research misconduct (hereinafter referred to as "Misconduct") must be discharged in order to resolve questions regarding the integrity of persons and of research. Even in the absence of a specific complaint, the University accepts its duty to be alert to questionable academic conduct that might raise legitimate suspicion of misconduct. During an inquiry and during any investigation, which may follow, the University will focus on the substance of the issues and will be vigilant in preventing personal conflicts between or among colleagues from obscuring the facts.
- B. Procedures
 1. The Dean of Research is the official designated by the University as the person whom allegations of misconduct and related concerns and complaints are to be made. In the event that the allegation, complaint or concern indicates that the Dean of Research has a conflict of interest, or in the event that the Dean of Research is a respondent or complainant, the University designates the Vice President for Academic Services or his/her duly appointed successor to the functions of the Dean of Research, in this policy, shall be applicable to the Vice President for Academic Services only when the Vice President for Academic Services functions in the place of the Dean of Research.

2. The University recognizes that some concerns may not fall within the scope of this policy. In the event the Dean of Research, in consultation with the Vice President for Academic Services, determines that a concern is cognizable under this policy, the nature and extent of the inquiry, and the nature and extent of the policy and procedures governing the investigation, will be discussed with the individual who has expressed the concern, complaint or allegation. If the Dean of Research, in consultation with the Vice President for Academic Services, determines that the matter is not appropriate for the policies and procedures dealing with misconduct, the Dean will suggest that the matter be referred to other appropriate institutional processes, such as a Department Chair, or the Faculty Committee on Grievance and Conciliation.
3. In the event the matter is within the scope of this policy and following informal discussion about the procedures with the Dean of Research, the individual must decide whether or not to make a formal allegation of misconduct. Such a formal allegation written, signed, and dated by the individual must be addressed and delivered to the Dean of Research. The complainant's written complaint shall state, at minimum, the following:
 - a) The nature of the complaint and the grounds for the complaint, including all available evidence relevant to the complaint;
 - b) The identity of the person(s) (respondent) against whom the complaint is being made;
 - c) The identity of the person(s) whom the complainant intends to call as witness(es) during the inquiry process.
4. In the event the respondent (subject of the allegation) leaves the University before the case is resolved, the University will continue the examination of the allegations and proceed to a final conclusion. In such an event, the respondent will be notified of the existence of the matter and of the specific allegations. In addition, the respondent will be given reasonable notice and an opportunity to participate in the process.

V. Inquiry

- A. Purpose: Upon receipt of a formal written allegation of misconduct, the Dean of Research shall initiate an inquiry. This inquiry is the first step in the review process. At this stage, factual information will be gathered and expeditiously reviewed to determine whether an investigation of the charge is merited. An inquiry is not a formal hearing; it is designed to separate allegations deserving further investigation from frivolous, malicious, unjustified or clearly mistaken allegations.

B. Structure:

1. The standing Research Committee of the University will serve as the inquiry committee. If, in the judgment of the Dean of Research, an individual member of the Research Committee has a real, or apparent, conflict of interest in the case or if an individual lacks sufficient expertise to judge the issues being raised, he/she shall be removed from the inquiry and an alternate appointed as soon as practicable. Alternates will be selected from the faculty-at-large. Such selection shall be by the President in consultation with the Vice President for Academic Services and the Dean of Research. In all instances, individual inquiry committee members must have appropriate backgrounds for judging the issues being raised. An individual member of the Research Committee may also apply to the Dean of Research in writing for permission if he/she believes he/she has a real, or apparent, conflict of interest and therefore cannot fairly judge the issues at hand. Upon receipt of such written notice the Dean of Research shall either reject the application, or if approved, appoint an alternate according to the procedure outlined above.
2. The committee, with executive approval, will consult with the University's legal counsel to minimize the risk of liability for actions taken in the conduct of an inquiry and investigation. A respondent has the right to have the assistance of legal counsel during an inquiry and during an investigation. However, the costs incurred in connection with such legal counsel shall be paid by the respondent(s) and legal counsel shall act only in an advisory capacity to the respondent(s) during the inquiry, and during any ensuing investigation, and shall not participate directly in the proceedings. The University's legal counsel, upon approval, shall serve in an advisory capacity to the inquiry committee and any investigation committee, the University, its trustees, officers and non-respondent employees.

C. Process:

1. The Dean of Research will notify the respondent, in writing, within five (5) business days of the initiation of an inquiry of the charges contained in the formal allegation of misconduct. In said notice the Dean of Research also shall advise the respondent of the respondent's obligation to cooperate with the inquiry process by providing the inquiry committee with all materials necessary to conduct the inquiry.

- a. The University is the owner of all materials and records of the sponsored project. Therefore, the notice will further inform the respondent that all original primary data associated with the questioned research or project must be secured within 24 hours under the control of the Vice President for Academic Services during the course of an inquiry or any ensuing investigation. Reasonable access to the data by the respondent may be allowed by provision of authenticated copies of the data or under careful supervision of the Vice President for Academic Services or his/her personal representative.
2. In the event that the respondent fails or refuses to cooperate, an investigation will commence immediately. The respondent will be so advised. Such advice will contain a statement that the investigation may result in sanctions under both this policy and other University policies, as deemed appropriate by the President.
3. The Dean of Research will convene the inquiry committee within ten (10) business days after receiving a formal written allegation of misconduct, and will provide the committee with the written charges and a written summary of the available facts. Whether a case can be reviewed effectively without the involvement of the complainant depends on the nature of the allegation and the available evidence. Cases that depend specifically on the observations or statements of the complainant cannot proceed without the open involvement of the individual; however, in cases that depend upon documentary evidence and do not require direct, open participation of the complainant, the Dean of Research may permit the complainant to remain anonymous during the inquiry. If possible, the identity of the complainant will be kept confidential during the inquiry stage.
4. Within ten (10) business days following notification to the respondent, the inquiry committee will begin the review of all the relevant evidence in the case. This may or may not require interviewing witnesses, the respondent(s) and the complainant(s). The review will proceed as expeditiously as possible and will conclude within seventy-five (75) business days from the date the Dean of Research receives a formal allegation of misconduct. The 75-day period will include the preparation of a report of the findings.
5. Upon the completion of the review of the evidence, the inquiry committee will deliberate in closed session. The decision by the inquiry committee shall be by majority vote on whether an investigation shall be convened. Members of the inquiry committee, including the Dean of Research, as Chairman, shall be privileged to vote only "aye" or "nay".

D. Findings

1. The Dean of Research will prepare a written summary of the inquiry, which shall include a statement of the evidence reviewed, a summary of relevant interviews and the conclusions of the inquiry. The summary shall be prepared within ten (10) business days of the conclusion of the review of the evidence.
2. The respondent(s) shall be provided with a copy of the summary report of the inquiry. If there is a complainant, he or she shall likewise receive a copy of the summary report of the inquiry.
3. The President, the Vice President for Academic Services, the Vice President for Administrative Services and the Vice President for Business Services shall each receive a copy of the report of the inquiry.
4. If an allegation is found to be unsupported but has been submitted in good faith, no formal action, other than informing all involved parties as delineated above, shall be taken and the matter shall be considered closed. All reasonable and practical efforts, if requested and appropriate, will be made to protect and restore the reputation of persons alleged to have engaged in research misconduct against which no finding of research misconduct is made. Secured original primary data shall be returned to the respondent by the Vice President for Academic Services. The file of all relative materials shall be forwarded by the Dean of Research to the President who shall be the custodian of a confidential permanent record of the proceedings.
5. Allegations found to require investigation shall be forwarded, by written notice, to the President, the Vice President for Academic Services, the Vice President for Administrative Services, and the Vice President for Business Services. The President or his/her designee will formally initiate an investigation within thirty (30) business days of the receipt of this notice. In accord with federal regulations and this Policy, the agency or agencies sponsoring the research shall be notified immediately by the President or his designee, that an investigation will be undertaken.
 - a. The President or his/her designee shall report to the appropriate person at the funding agency.
 - b. If the research is sponsored by the NSF, the President or his designee shall report in writing to the Office of the Inspector General (OIG). At a minimum, the report shall include (1) the name of the person(s) against whom the allegations have been made, (2) the general nature of the allegation, (3) the NSF application or grant number(s) involved, (4) the basis for recommending that the alleged actions warrant an investigation, and (5) any comments on the report by the respondent of the complainant.

- c. If the research is sponsored by another agency such as the Foundation for Chiropractic Education and Research (FCER) or the Consortium for Chiropractic Research (CCR), a private Foundation or a private or public Corporation, the President or his designee shall notify the appropriate institutional official of the sponsoring agency in writing that an investigation will take place.
6. Allegations found by the inquiry committee to have been brought maliciously or otherwise not in good faith will lead to disciplinary action against the complainant consistent with University policy and the Faculty Handbook as deemed appropriate by the President. The inquiry committee may recommend disciplinary action; however; final authority rests with the President.
7. All reasonable and practical efforts will be made to protect or restore the position and reputation of any complainant, witness, or committee member. Any potential or actual retaliation by the respondent against the complainant(s), witnesses, or committee members will be considered misconduct under this Policy.

VI. Investigation

A. Purpose

If the inquiry committee determines that an investigation is warranted, an investigation shall be initiated within thirty (30) business days of the conclusion of an inquiry and after written notice is sent to the respondent. The purpose of the investigation is to formally determine whether misconduct, including or excluding fraud, has been committed. In the course of an investigation, additional information may emerge that justifies broadening the scope of the investigation beyond the initial allegations. The respondent(s) shall be informed when significant new directions of an investigation are undertaken. The investigation shall focus on accusations of Misconduct and examine the factual materials of each case.

B. Structure

1. The President shall appoint an ad hoc investigation committee of five (5) persons from a list of ten (10) persons submitted to the President by the Dean of Research. For purposes of institutional memory, each investigative committee shall consist of the Dean of Research, and two full-time tenured faculty of the University. Two (2) additional members of the investigative committee shall be selected either from within or outside the University. The President shall exercise care to insure that conflicts of interest are scrupulously avoided and that all appointees have appropriate scientific research expertise to judge the matter at hand.

2. Within five (5) days of the date of the notice of the appointment of the investigation committee, the respondent(s) shall have the right to file a written challenge, for cause, to the appointment of an individual investigation committee member. In such an instance, the respondent(s) must submit evidence to the President that there is either (1) conflict of interest or (2) that the investigative committee member lacks the requisite scientific research expertise to judge the matter at hand. Where such a charge is upheld, the President shall substitute another person or persons, as the case may require. However, no challenge may be made to the participation of any such substitute.
3. The Dean of Research shall act as Chairman of the investigative committee. In the event of an unsolvable conflict of interest between the Dean and the complainant, or the Dean and the respondent, or in the event that the Dean of Research is a respondent, the Vice President for Academic Services or his/her designee shall serve as the Chairman.

C. Process

1. Within ten (10) business days of the appointment of the ad hoc investigative committee, the Chair shall notify the complainant(s) and respondent(s) in writing, of the investigation. The parties shall be advised of their obligations to promptly cooperate with the investigation by providing all requested information and documentation. Additional original primary data shall be secured as described above. Failure to cooperate will result in immediate disciplinary action.
2. Within ten (10) days thereafter, the Chairman of the investigative committee shall provide the respondent(s) with all information necessary to prepare and file a written response. Within ten (10) business days of the date of such notification, the respondent shall file a written response and deliver it to the Chairman, who shall immediately deliver a copy to the complainant(s). The respondent shall have the opportunity to address the charges and the evidence in detail before the committee. Legal counsel may be employed in a fashion consistent with University policy as stated in section B. 2.
3. During the course of the investigation the University shall take whatever interim administrative action is necessary to protect the health and safety of research subjects and patients, of experimental animals or to protect the interests of students and colleagues. This may range from "no restriction" to "suspension" of the respondent(s) of his/her activities.

4. Where the research in question is sponsored by the PHS, the ORI will be notified by the President or his/her designee, if at any stage during an inquiry or investigation, any of the following conditions exist:
 - a. There is an immediate health hazard involved.
 - b. There is an immediate need to protect Federal funds or equipment.
 - c. There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is (are) the subject of all allegations as well as his/her co-investigators and associates, if any.
 - d. It is probable that the alleged incident is going to be reported publicly.
 - e. There is reasonable indication of possible criminal violation. In this instance, the ORI must be informed within 24 hours of the University obtaining such information. ORI will immediately notify the Office of the Inspector General.
5. The investigative process shall be conducted as expeditiously as fairness and thoroughness permit, but in no instance shall the period exceed one-hundred-twenty (120) business days from initiation to completion. This includes conducting the investigation, preparing the report of findings, making the report available for comment by the subjects of the investigation, and submitting the report to the ORI or the OIG if required.

D. Findings

1. When all the evidence has been reviewed by the investigative committee, the committee shall deliberate in closed session to determine the outcome of the investigation. Various outcomes are possible, including:
 - a) A finding of misconduct.
 - b) A finding of misconduct that constitutes fraud.
 - c) A finding that no culpable conduct was committed, but serious scientific errors were discovered.
 - d) A finding that no fraud, misconduct or serious scientific error was committed.
 - e) A finding that there is evidence that requires further action by the University, even though there is no evidence of fraud or misconduct.
2. The decision of the investigative committee on each of these outcomes shall be by majority vote with each member, including the Chair, privileged only to vote either "aye" or "nay".

3. Within ten (10) business days of the conclusion of the investigation, the Chair shall submit a written report of the findings of the investigative committee together with the complete file of the investigation, including the respondent's comments and considerations, to the President and his/her executive group. The President shall be the custodian of the permanent record of the investigation. The respondent shall also receive a full written report of the investigation. When there is more than one respondent, each shall receive all those parts that are pertinent to his/her role. The complainant(s) shall receive a summary of the findings.
4. Upon receiving the written report from the Chair of the investigative committee, the President or his/her designee, shall immediately inform all federal agencies, sponsors or other entities initially informed of the investigation findings.
5. In the event that the investigation was begun on the basis of a complaint, and no misconduct is found, no disciplinary measures shall be taken against the complainant and every effort shall be made to prevent retaliatory action against the complainant, but only if the allegations, however incorrect, are found to have been made in good faith. If the allegations are found to have been maliciously motivated, disciplinary actions shall be taken against the complainant consistent with University policy.

VII. Appeal and Final Review

The respondent shall have the right to appeal the findings of the investigative committee through a written appeal to the President. The appeal shall be restricted to the body of evidence already presented. The grounds for appeal shall be limited to: (1) failure to follow appropriate procedures in the investigation, or (2) arbitrary and capricious decision-making or (3) that the decision is against the manifest weight of the evidence. The appeal shall be filed within ten (10) business days of notification of the investigative committee's findings. The President's decision on the appeal shall be final. New evidence may warrant a new investigation. However, "new evidence" is defined as that evidence which was either not available at the time of the investigation or which could not have been discovered by due diligence before the investigation. In the event of new evidence, the President may reconvene the investigative committee which heard the original evidence or, at his/her discretion, the President may appoint a new investigative committee. In such an event, the new investigation shall be concluded within one-hundred-twenty (120) business days as described previously.

VIII. Disposition

The nature and severity of disciplinary action of sponsored research or activity shall be at the discretion of the sponsoring institution.

The nature and severity of disciplinary action by the University shall be at the discretion of the President or his/her designee, and consistent with University policy and the Faculty Handbook procedure on grievances. In all instances disciplinary action shall be commensurate with the nature of the proven acts of misconduct. Examples of such action include: removal from a project, letter of reprimand to be placed in the individual's personnel file, special monitoring of future work, probation, suspension, salary reduction, rank reduction, termination of employment.

The President shall also consider formal notice to other concerned parties not previously notified relative to the outcome of the case. Such persons may include, but are not limited to, co-authors, co-investigators, collaborators, editors of journals in which fraudulent research was published, State professional licensing boards, professional societies, other institutions with which the individual has been associated or might reasonably be expected to seek employment and, where appropriate, criminal authorities. If, during the course of the investigation, the respondent resigns from the University, the investigation shall nevertheless continue to its full conclusion. The University recognizes that a person who has resigned, or been dismissed from an institution, may commence or resume dishonest activities elsewhere. Therefore, the University shall thoroughly check the references, licensing and accreditation status of all new faculty and clinical staff to insure that no individual found guilty of scientific misconduct or fraud is hired by the University.