



VCU

Misconduct in Research and Scholarly Activities

Policy Type: Administrative

Responsible Office: Office of Research

Initial Policy Approved: 05/18/1990

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Policy Statement and Purpose

To articulate university requirements and guidance which apply to misconduct in research and scholarly activities.

Research is an integral and essential component of Virginia Commonwealth University's educational mission. VCU's mission includes creating new knowledge through research, applying that knowledge in teaching, public service and patient care, preserving that knowledge in the University's libraries, databases and journals, and transferring that knowledge to future generations through teaching and publications.

The pursuit, preservation, and transfer of new knowledge must express the highest scholarly standards and reflect the character and integrity of an institution and its faculty and students. Misconduct in research and scholarly activities threatens these tenets and will not be tolerated at Virginia Commonwealth University.

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Who Should Know This Policy

All university members are responsible for knowing this policy and familiarizing themselves with its contents and provisions.

Definitions

Administrative Unit Head

Administrative unit head means the person charged with the responsibility of supervising or directing a unit within the University. The administrative unit head may be, for example, the supervisor of a group, the director of a division, a department chair, a dean or a vice president.

Allegation

Allegation means a disclosure, charge or claim of possible misconduct in research or scholarly activities conveyed through any means of communication. The disclosure, charge or claim may be by written or oral statement or other communication to an institutional official.

Complainant

Complainant means a person who makes an allegation of misconduct in research or scholarly activities.

Day

The term “day” signifies business days, those days on which the University normally is open for business.

Evidence

Evidence means any document, tangible or intangible item or other matter having evidentiary value or testimony offered or obtained during a misconduct in research and scholarly activities proceeding that tends to prove or disprove the existence of an alleged fact.

Good Faith

Good faith means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have based on the information known to the complainant or witness at the time. Making an allegation of misconduct or participation in misconduct in research and scholarly activities proceeding is not undertaken in good faith if done with knowing or reckless disregard for information that would negate the allegation or testimony.

Inquiry

Inquiry means a preliminary information-gathering and preliminary fact-finding process to determine whether an allegation or apparent instance of misconduct in research and scholarly activities has substance and if a formal investigation is warranted.

Investigation

Investigation means the formal development of a factual record and the examination of that record leading to a decision regarding a finding of misconduct in research and scholarly activities.

Misconduct in Research and or Scholarly Activities Proceeding

Misconduct in research and scholarly activities proceeding means any action related to an allegation of misconduct in research and scholarly activities undertaken pursuant to this Policy, including but not limited to, allegation assessments, inquiries, and investigations, and cooperation with external sponsor oversight reviews, hearings, and administrative appeals required or permitted by law, regulation, or contract.

Preponderance of Evidence

Proposition is more likely to be true than not true (i.e., more likely than not that misconduct did occur).

Research Misconduct

Research misconduct is the 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.

- **Fabrication** is making up data or results and recording or reporting them.
- **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 [i.e. the record of data or results that embody the facts emerging from the research, and includes, but is not limited to, research proposals, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and books].
- **Plagiarism** is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Research

Research means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research).

Research Integrity Officer (RIO)

The Research Integrity Officer (RIO), appointed by the Vice President for Research, is the individual responsible for receiving allegations of misconduct in research and scholarly activities, for assuring that there is a timely response to such allegations, for keeping the Vice President for Research and the Associate Vice President for Research Administration and Compliance informed regarding the status of allegations, and for all matters related thereto.

Research or Scholarly Activities Record

Research or scholarly activities record means the record of research data or results that embody the facts resulting from scientific or scholarly inquiry, including but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal or external reports, journal articles, and any documents and materials provided to an institutional official or a funding sponsor by a respondent in response to questions about the research at issue.

Respondent

Respondent means the person against whom an allegation of misconduct in research and scholarly activities is directed or who is the subject of misconduct in research and scholarly activities proceeding.

Retaliation

Retaliation means an adverse action taken against a complainant, witness, or committee member by the university or one of its members in response to:

- (a) A good faith allegation of misconduct in research and scholarly activities; or
- (b) Good faith cooperation with a misconduct in research and scholarly activities proceeding.

University Member

University member means any person engaged or participating in University sponsored research or scholarly activity including the following: a full- or part-time faculty member, whether paid or volunteer, official, classified employee, administrative staff member, paid student assistant, student, fellow or trainee, visiting faculty member or researcher, volunteer, or agent of Virginia Commonwealth University or the VCU Health System, or, when covered by a sponsored program agreement or other contractual arrangement, a contractor, subcontractor or subawardee, or their respective employees.

U.S. Department of Health and Human Services, Office of Research Integrity (ORI)

The Office of Research Integrity (ORI) oversees and directs Public Health Service (PHS) research integrity activities on behalf of the Secretary of Health and Human Services with the exception of the regulatory research integrity activities of the Food and Drug Administration. ORI carries out its responsibility by developing policies, procedures and regulations related to the detection, investigation, and prevention of research misconduct and the responsible conduct of research; reviewing and monitoring research misconduct investigations conducted by applicant and awardee institutions, intramural research programs, and the Office of Inspector General in the Department of Health and Human Services (HHS); and recommending research misconduct findings and administrative actions to the Assistant Secretary for Health for decision, subject to appeal.

Contacts

The VCU Office of Research officially interprets this policy. The VCU Office of Research is responsible for obtaining approval for any revisions as required by the policy *Creating and Maintaining Policies and Procedures* through the appropriate governance structures. Please direct policy questions to the VCU Office of Research.

Procedures

General Procedures

Responsibility to Report Misconduct

Anyone who becomes aware of a possible incident of research misconduct by a member of the university shall immediately report the information to the Research Integrity Officer (RIO).

Protecting the Reputation of the Complainant

All members of the university community who receive, or learn of an allegation of research misconduct shall treat the complainant who has made a good faith allegation of research misconduct with fairness and respect and shall take reasonable steps to protect the position and reputation of the complainant and other individuals who cooperate with the inquiry or investigation against retaliation. If the complainant requests anonymity, the university will make every effort to honor that request during the preliminary assessment to the extent permitted by law. However, if the matter goes to the Investigation Phase and the complainant's testimony is required, anonymity may no longer be guaranteed. The university will undertake efforts to protect complainants from potential or actual retaliation.

Protecting the Reputation of the Respondent

All members of the university community who receive, or learn of an allegation of research misconduct shall treat the respondent with fairness and respect and shall take reasonable steps to ensure these misconduct procedures are followed. When there has been no finding of misconduct, the university shall make efforts to protect or restore the position and reputation of the respondent. This may be accomplished through communication with those who are aware of the matter, publicizing the final outcome in forums in which the allegation of misconduct was previously publicized, expunging references to the allegations from the respondent's personnel file, or through other steps worked out in coordination with the respondent.

Confidentiality

To the extent allowed by law, the identity of respondents and complainants shall be maintained securely and confidentially and any identifying information will only be disclosed to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding. To the extent allowed by law, any information obtained during the research misconduct proceeding that might identify the subjects of research shall be maintained securely and confidentially and shall not be disclosed, except to those who need to know in order to carry out the research misconduct proceeding.

Custody of Research Records

The University, acting through a chair, dean or vice president, in consultation with the RIO, will promptly take all reasonable and practical steps to obtain custody of all research or scholarly records and evidence which may be necessary to pursue an allegation of misconduct in research and scholarly activities, including additional research or scholarly activities records or evidence that are discovered during the course of the misconduct proceedings. The records and evidence shall be inventoried and sequestered in a secure manner, and where appropriate, the respondent and relevant others (e.g., research team members, witnesses) shall be provided copies of, or reasonable supervised access to the research or scholarly activities records. The destruction, absence of, or respondent's failure to provide, research or scholarly activities records adequately documenting the questioned research establishes a presumption of misconduct that may be relied upon in establishing misconduct in research and scholarly activities where the respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.

Notification of Findings of Misconduct

In those cases where the research or scholarly activities under investigation have been supported by an external sponsor, the VPR will be responsible for satisfying any notification and reporting requirements of that sponsor. In addition, he/she will promptly notify the appropriate funding agency and the U.S. Department of Health and Human Services' (USDHHS) Office of Research Integrity (ORI) at any time

during a misconduct in research and scholarly activities proceeding if it has reason to believe that any of the following conditions exist: (1) the health and safety of the public is at risk, including an immediate need to protect human or animal subjects; (2) public funds, resources or interests are threatened; (3) research activities should be suspended; (4) there is reasonable indication of possible violation of civil or criminal law; (5) the institution believes that the research misconduct proceedings may be made public prematurely (so that the funding agency may take appropriate steps to safeguard evidence and protect the rights of those involved); and, (6) there exist other reasons that the University determines that the research community or public should be informed.

Allegations Against a Student

Allegations against student respondents of misconduct in research and scholarly activities which are or were undertaken as a part of a classroom activity shall be referred to the appropriate Honor Code official. The determination that the scholarly activity was undertaken for the purpose of classroom activity shall be made by the VPR after consultation with the advisor to the appropriate Honor Code. Unless the misconduct is determined to be solely a part of student classroom academic activity, referral to the Honor Code official does not remove the allegation from the purview of this policy.

Responding to an Allegation

Reporting

An allegation of misconduct in research or scholarly activities shall be made to the university's RIO. The RIO shall, in a timely manner, report it in confidence to the departmental chair and the dean of the school, college or other administrative unit head in which the respondent holds an appointment, is a student, fellow, or trainee, or to which the respondent is assigned for supervision. If the respondent is the reporting individual's chair, allegations may be reported by the RIO to the dean of the department's school. If the respondent is a dean or director, the allegation may be reported to the appropriate vice president. The Vice President for Research and the Associate Vice President for Research Administration and Compliance will be apprised of all allegations of misconduct reported to the RIO.

Assessment of Allegation

Within ten (10) business days of receipt of the allegation, the administrative unit head, in consultation with the RIO, shall determine whether the allegation warrants an inquiry and notify in writing the complainant, the respondent (as relevant), responsible chair, dean, director, and RIO. An inquiry is warranted if the allegation falls within the definition of misconduct in research and scholarly activities under this policy, and is sufficiently credible and specific so that potential evidence of misconduct may be identified.

If an inquiry is not warranted, the RIO and the administrative unit head will retain a confidential record of the reasons for this determination. In the case of a determination that no inquiry is warranted, within five (5) business days of notification of the determination, the complainant may make an appeal of such determination directly to the VPR.

If an inquiry is warranted, the ***Inquiry Phase*** will be initiated. The respondent shall be informed in writing of the allegations, and the process that will be followed in pursuing the allegation. The respondent will also be given a copy of this policy as well as written information on the research or

scholarly activities records and evidence reviewed in making the assessment that an inquiry was warranted.

Inquiry Phase

Inquiry Panel

If an inquiry is warranted, an inquiry panel shall be appointed by the relevant dean or his/her designee in consultation with the RIO. The panel will conduct an initial review of the evidence to determine whether to proceed with an investigation.

The panel shall consist of three (3) faculty members, one of which will serve as the panel chair. The respondent and complainant will each have the opportunity to challenge the inclusion of one initial member of this panel for cause; such challenges must be made in writing, stating a compelling reason for the challenge, and submitted to the dean or his/her designee within five (5) business days of the dean's communication outlining the panel's composition. Resolution of challenges shall be made by the dean or her/his designee in consultation with the RIO. If they find compelling evidence that any panel member cannot function in a fair and impartial fashion, he or she will discharge that panel member and immediately appoint a replacement.

Respondent Response to Allegations

The Respondent shall be afforded an opportunity to file a written response to the allegations and evidence leading to an inquiry. The written response must be prepared and submitted to the Inquiry Panel Chair within ten (10) business days of receiving notification that the allegation has proceeded to the inquiry phase process.

Inquiry Panel Assessment and Final Report

The inquiry normally shall be completed and a final written report submitted within 30 business days of the final constitution of the Inquiry Panel (i.e., after all challenges are resolved). If the inquiry takes longer than 30 business days to complete, the record of the inquiry shall include documentation of the reasons for exceeding the 30-day period.

The Inquiry Panel Chair will submit the final report to the VPR, with copies to the RIO, the dean, the unit head, the respondent, and the complainant. The respondent and complainant will have a period of five (5) business days from receipt to review and comment on the final Inquiry Panel report. Any comments from the respondent or complainant shall be attached to the report and become part of the report record. The full inquiry process, including written comments by the respondent or others, must be completed within 35 business days of constitution of the Inquiry Panel.

If the Inquiry Panel finds sufficient evidence in support of the allegation of potential misconduct, an investigation process will be initiated. The purpose of the investigation is to determine if any misconduct has occurred.

Within ten (10) business days of receiving the final report from the Inquiry Panel that an investigation is warranted, the appropriate dean, in consultation with the RIO and the VPR, will notify in writing both the respondent and the complainant that an investigation is to be conducted. The notification must include the specific charges.

If required by ORI policy, upon a finding by an Inquiry Panel that an Investigation is warranted, within 30 days the VPR is responsible for providing the ORI with the written finding and a copy of the inquiry report.

Investigation Phase

Investigation Panel

If an investigation is warranted, an Investigation Panel shall be appointed by the VPR, in consultation with the RIO and the dean of the school or college (or unit head of the relevant unit) in which the respondent holds their primary appointment. The Investigation Panel must be appointed within thirty (30) business days after the receipt of the written determination by the Inquiry Panel. Panel members may not have served on the Inquiry Panel for the allegation being considered by the Investigation Panel. The panel will be composed of a minimum of five (5) members, one of whom will serve as the chair. All members of the Investigation Panel who are drawn from the Virginia Commonwealth University academic community must be full-time faculty, and at least two (2) of the panel members should be knowledgeable in the scholarly or scientific discipline of the respondent. Additionally, up to two (2) of the panel members may be drawn from outside the VCU academic community. The respondent and complainant will have the opportunity to one challenge of any initial member of this panel for cause; such challenges must be made in writing, state a compelling reason for the challenge, and be submitted to the appropriate dean within five (5) business days of receipt of the communication outlining the panel's composition. The VPR, in consultation with the dean and RIO, will review any challenges presented by the respondent and complainant. If they find compelling evidence that any panel member cannot function in a fair and impartial fashion, that panel member will be discharged and a new member appointed.

Rights of Respondent

All necessary information must be provided to the respondent, or the respondent given supervised access to records, in a timely manner to facilitate the preparation of a response to the investigation. The respondent will have the right and opportunity to address the charges and evidence in detail and to verbally and/or in writing present his or her detailed response to the panel. Upon a showing that the respondent is having difficulty in the verbal presentation of his case, he or she may have assistance through an interpreter or other speaker. Such person shall not be an advocate. Additionally, the respondent may be accompanied by an advisor of his/her choice when he/she is before the Investigation Panel. The role of the advisor is limited to consultation with the advisee.

Investigation Panel Assessment and Final Report

The investigation normally shall be completed and a final written report submitted within 60 business days of the final constitution of the panel (i.e., after all challenges are resolved). If the investigation takes longer than 60 business days to complete, the record of the investigation shall include documentation of the reasons for exceeding the 60-day period.

The Investigation Panel Chair will submit the panel's draft report to the VPR, with copies to the RIO, the dean, the unit head, and the respondent. The complainant may request a copy of the report from the VPR. The respondent, and complainant (as relevant), will have a period of 30 business days from receipt to review and comment on the panel report. The final report, with any comments from the respondent

and complainant attached, must be submitted to the VPR, with copies to the RIO, the Associate Vice President for Research Administration and Compliance, the dean, the unit head, and the federal Office of Research Integrity (ORI) within 120 business days of constitution of the Investigation Panel. If the full investigation cannot be completed within 120 business days an extension may be authorized by the VPR. If required by regulation, the VPR will ask the external sponsor or other entity (e.g. ORI) for their approval in writing for granting an extension.

Additional Allegations

Should additional allegations of misconduct arise in the course of the investigation, such new allegations will be promptly communicated to the respondent and become part of the assessment and deliberation of the Investigation Panel.

Disposition of Findings

Finding of insufficient evidence of misconduct: Within fifteen (15) business days of receiving the panel's report, the VPR will inform the respondent(s), complainant(s), dean, director, and/or department chair, the RIO, the ORI and any other relevant parties that the allegations were not supported by the evidence and that the respondent is exonerated of wrongdoing.

Finding of sufficient evidence to substantiate misconduct: Within fifteen (15) business days of receiving the panel's report, the VPR will inform the respondent(s), complainant(s), dean, director, and/or department chair, the RIO, the President of the University, and the ORI that there has been a finding of misconduct.

A finding of misconduct requires that:

- there be a significant departure from accepted practices of the relevant research community;
- the misconduct be committed intentionally, or knowingly, or recklessly; and
- the allegation be proven by a preponderance of evidence.

A respondent who has been found guilty of research misconduct may appeal to the VPR within five (5) business days of receiving written notice of the decision of the Investigative Panel. The appellant shall have the burden of proving their claim.

Appeal Process

Upon receipt of the appeal, the VPR shall, within five (5) business days, notify all parties of the appeal and provide them with a copy of the appeal statements. From the date of the notification of the appeal, all parties shall have ten (10) business days to respond in writing to issues raised in the appeal. This appeal process shall be completed within 30 business days.

Appeal Panel

The VPR, in consultation with the RIO, shall appoint seven (7) members to the appeal panel. Six (6) members shall be appointed from recommendations made by the Vice President for Academic Affairs, the Vice President for Health Sciences, and the chief officer of the appropriate representative faculty or staff body. Appeal Panel members may not have served on either the Inquiry or Investigation Panel for

the allegation being considered by the Appeal Panel, and shall not be eligible for service on any other Inquiry and/or Investigation Panel while serving on the Appeal Panel.

The respondent and complainant will have the opportunity to one challenge of any initial member of this panel for cause; such challenges must be made in writing, state a compelling reason for the challenge, and be submitted to VPR within five (5) business days of receipt of the communication outlining the panel's composition. The VPR, in consultation with the RIO, will review any challenges presented by the respondent and complainant. If they find compelling evidence that any panel member cannot function in a fair and impartial fashion, he or she will discharge that panel member and immediately appoint a replacement.

Appeal Panel Procedure

The Appeal Panel members shall review all the evidence, the written reports of the Inquiry and Investigation Panels, and hear testimony on behalf of the Appellant. If the panel considers that additional information or testimony is needed to clarify the case, it may convene a hearing. The hearing shall be confined to those questions or issues specified by the Appeal Panel. The appellant may attend the hearing and may be accompanied by one (1) advisor of his/her choice, whose participation in the hearing is at the sole discretion of the Appeal Panel. If the Appeal Panel considers that the record is complete, it may proceed to a decision on the case.

Appeal Panel Decision

Within 30 business days of the constitution of the Appeal Panel, the panel must inform the VPR of their final decision to either uphold or reverse the decision of the Investigative Panel.

Within 15 business days of receipt of the final appeal decision, the Vice President for Research will inform the respondent(s), complainant(s), dean, director, and/or department chair, the RIO, the Associate Vice President for Research Administration and Compliance, the President of the University, the ORI and other relevant parties as specified below.

Additional Appeals

The decision of the appeal panel shall be final unless the appellant further appeals in writing to the President of the University within ten (10) business days of receipt of the Appeal Panel's decision. In the event of such an appeal, the President shall review the record and tender a decision in writing within thirty (30) business days. The President's decision shall be final, and there shall be no further appeal within the university.

The parties shall be notified of any external appeal process available from the funding sponsor and shall be given a copy of available rules or regulations governing the sponsor's external appeal process.

Sanctions

After the resolution of all appeals, if there is a finding of misconduct, the VPR, in consultation with the RIO and the relevant dean, will determine the appropriate sanctions. The sanctions will be communicated in writing to all appropriate parties within fifteen (15) business days of notification of the panel's finding of misconduct. The procedures and remedies that may be imposed by the university are

in addition to any state or federal laws or regulations which may impose penalties, corrective action, or civil and/or criminal liability for misconduct in research and scholarly activities.

Notification to Other Relevant Parties

Upon a finding of misconduct and the resolution of any appeals, the VPR shall notify any other relevant parties. Relevant parties might include, but not be limited to: sponsoring agencies and funding sources; co-authors, co-investigators, and collaborators; editors and publishers of journals and books in which results and writings were published; state professional licensing boards; editors of journals or other publications, other institutions, sponsoring agencies, and funding sources with which the individual has been affiliated; and, professional societies.

Final Disposition of Records

The VPR must maintain records of misconduct in research and scholarly activities proceedings in a secure manner for seven (7) years after their completion or after completion of any sponsor's proceeding authorized by regulation, whichever is later. On request, VCU must transfer custody of, or provide copies to, any sponsor so authorized by regulation, of any institutional record relevant to a misconduct in research and scholarly activities allegation covered by said regulation, including the research or scholarly activities records and evidence, to perform forensic or other analyses or as otherwise needed to conduct an inquiry or investigation or review or to present evidence, as required by such regulation.

In addition, the VPR must maintain all of its records in a manner consistent with the Virginia Public Records Act (Virginia Code § [42.1-76](#), *et seq.*).

Forms

There are no forms associated with this policy and procedures.

Related Documents

1. *VCU Code of Ethics*
2. *Intellectual Property Policy*
3. *Outside Professional Activity and Employment, Research, and Continuing Education*
4. [Public Health Service Policies on Research Misconduct](#)
5. *Records Management State Agency General Schedules* of the Library of Virginia at www.lva.virginia.gov/agencies/records/sched_state/index.htm
6. *Reporting Suspected University-related Misconduct/Non-compliance and Protection from Retaliation*
7. *Responsible Conduct in Research and Scholarship*

8. *Research Data Ownership, Retention and Access*
9. *Virginia Public Records Act §§ [42.1-77](#) and [42.1-86.1](#) of the Code of Virginia*

Revision History

This policy supersedes the following archived policies:

05/21/2010	<i>Misconduct in Research and Scholarly Activities Policy</i>
05/19/2006	<i>Misconduct in Research and Scholarly Activities Policy</i>
11/20/1997	<i>Misconduct in Research and Scholarly Activities Policy</i>
05/18/1990	<i>Misconduct in Research and Scholarly Activities Policy</i>

FAQs

There are no FAQs associated with this policy and procedures.