

Procedures for University Policy 4007-26: Addressing Allegations of Research Misconduct in PHS-Supported Research

All members of the George Mason University community should report observed, suspected, or apparent misconduct in research and scholarship directly to the Research Integrity Officer (RIO).

1. Allegation

Allegations received by a person other than the RIO shall be promptly referred to the RIO for preliminary assessment. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may call the RIO to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem. At any time, a community member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

Whenever possible, at a minimum the complainant should provide: the name of the respondent, names of witnesses, description of the misconduct, when and where the misconduct occurred, any relationship they have to the respondent, and supporting documentation. Additionally, if known, the complainant should specify whether the project is funded and the funding source. Finally, the complainant should provide their contact information unless they wish to remain anonymous. If the complainant wishes to remain anonymous, RIO will record the allegation without any identifiers that may have been disclosed during the allegation process.

The complainant has a duty to make the allegation in good faith. If at any point in a research misconduct proceeding the RIO or Vice President for Research believes that the allegation was not made in good faith, that official will refer the matter for appropriate handling under these procedures. Additionally, if the allegation is found not to have been made in good faith, and if the respondent is a member of the faculty, he or she may bring a grievance under the grievance provisions of the Faculty Handbook

2. Assessment

Upon receiving an allegation of research misconduct, the RIO will promptly assess the allegation to determine whether there is sufficient evidence to warrant an inquiry, whether Federal support or applications for funding are involved, and whether the allegation falls within the definition of research misconduct in this policy. An inquiry is warranted if:

- (a) the alleged conduct meets the definition of research misconduct in this policy; and
- (b) the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

If the alleged conduct fails to meet these criteria, no inquiry will be conducted. Where possible, the RIO may request additional details from and/or conduct an interview with the complainant to evaluate the need for an inquiry.

When a decision is made to dismiss an allegation at the assessment stage, the complainant may be notified of this decision and reasons for this decision. This notice may also be provided by the RIO to the Deciding Official and, when appropriate, the respondent, the respondent's local unit administrator, Dean or Director, and University Counsel.

3. Inquiry

The purpose of an inquiry is to conduct an initial review of evidence to determine whether to recommend that an investigation be conducted. An investigation is warranted if there is:

- (a) A reasonable basis for concluding that the allegation falls within the definition of research misconduct and
- (b) Preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance.

An inquiry does not require a full review of all the evidence related to the allegation.

Within seven (7) days of identifying an inquiry committee, the RIO will provide notice to the respondent. This notice will include a statement of the allegation, a description of the inquiry process, a request for information and names of witnesses, and a list of proposed inquiry committee members. The respondent may challenge a member of the inquiry committee on the basis of conflict of interest or bias by submitting the challenge in writing to the RIO within five days of the date of the notification. The RIO will determine whether to accept or deny the challenge and with whom a challenged member is replaced. The respondent may challenge the replacement in the same

manner. This notice will be copied to the respondent's local unit administrator, Dean or Director, Vice President, and the Deciding Official. Evidence will be sequestered at or before the notice of inquiry.

If during the course of the inquiry additional allegations are received or additional respondents are identified, the RIO will evaluate whether the additional allegation meets the definition of research misconduct and is sufficiently credible and specific. In those cases, the allegation becomes part of the ongoing inquiry and inquiry times are extended to accommodate evaluation of this new allegation. The RIO will also follow the procedure outlined in the previous paragraph regarding notification and sequestration of research records.

The inquiry and preparation of the draft inquiry report should ordinarily be completed within ninety (90) days of convening the inquiry committee. The inquiry report will contain the following:

- (a) The name and position of the respondent;
- (b) A description of the allegations of research misconduct;
- (c) Any Federal or other external support involved;
- (d) The names and positions of members of the inquiry committee;
- (e) Inventory of sequestered research records and other evidence and description of how sequestration was conducted;
- (f) Transcripts of any transcribed interviews;
- (g) Timeline and procedural history;
- (h) A description of any scientific or forensic analyses conducted;
- (i) The basis for recommending that the alleged actions warrant or do not warrant an investigation;
- (j) Comments on the report by the respondent;
- (k) A recommendation as to whether the complainant should be notified of the results of the inquiry and, if so, which parts of the report, if any, should be included in the notification;
- (l) A statement that the information should be maintained confidentially; and
- (m) Any institutional actions implemented, including communications with journals or funding agencies.

If there is potential evidence of honest error or difference of opinion, this will be noted in the inquiry report.

The respondent will be provided with the draft inquiry report by the RIO and have fourteen (14) days to provide a response to the report. The RIO will then prepare a final inquiry report on behalf of the inquiry committee that recommends to the Vice President whether an investigation should be conducted. This final inquiry report will be prepared within fourteen (14) days of receipt of comments from the respondent. Any comments received will be attached to the final report. The recommendation to proceed or not proceed to an investigation must be a majority decision with any minority reports attached to the inquiry report for the consideration of the Vice President.

Within fourteen (14) days of receiving the inquiry report, the Vice President will either convey questions or concerns to the inquiry committee or accept the recommendations of the committee. If the recommendation is to proceed to an investigation the Vice President will follow the procedures described in Section 4 (Investigation) and act on the other recommendations of the inquiry report. The RIO will notify funding agencies as required by their respective policies when inquiries are forwarded to the investigation stage.

The RIO will notify the respondent whether the inquiry found that an investigation is warranted. The notice will include a copy of the inquiry report and a copy of the research misconduct policy and procedures.

4. Investigation

The purpose of an investigation is to determine whether research misconduct occurred and, if so, by whom and to what extent. A finding of research misconduct requires that:

- (a) The misconduct was committed intentionally, or knowingly, or recklessly; and
- (b) The allegation was proven by a preponderance of the evidence; and
- (c) There was a significant departure from accepted practices of the relevant research community.

The Vice President will appoint an investigative committee and provide notice to the respondent of this decision. This notice will also include a statement of the allegation, a description of the investigation process, and the identities of the members of the investigation committee. This notice and final inquiry report will be provided by the RIO and copied to the respondent's local unit administrator, Dean or Director, University Counsel, and the Deciding Official. The respondent may challenge a member of the investigation committee on the basis of conflict of interest or bias by submitting the

challenge in writing to the Vice President within five (5) days of the date of the notification. The Vice President will determine whether to accept or deny the challenge and with whom a challenged member is replaced. The respondent may challenge the replacement in the same manner.

Within fourteen (14) days of the end of the final challenge period, the Vice President will begin the investigation by convening the first meeting of an investigation committee. At the investigation committee's first meeting, the Vice President will review the following: the allegations, the findings of the inquiry, the procedures and standards for conducting the investigation, confidentiality obligations, the need for an investigation plan, the possible penalties for a finding of misconduct, and the timeframe for completing the investigation. The University Counsel and RIO will accompany the Vice President at the first meeting of the investigation committee, and both will remain available to advise the committee during its investigation.

If the investigation discloses any allegation against the respondent not addressed during the inquiry or in the initial notice of the investigation or any allegation against an additional respondent, the committee will report the allegation to the RIO for assessment. If the RIO, with guidance from the inquiry committee, finds that the additional allegation meets the definition of research misconduct and is sufficiently credible and specific, the allegation becomes part of the ongoing investigation and investigative times are extended to accommodate evaluation of this new allegation.

The institution will give the respondent written notice of any allegation(s) of research misconduct not addressed during the inquiry or in the initial notice of investigation within a reasonable amount of time of deciding to pursue such allegation(s).

If the institution identifies additional respondents during the investigation, the institution may but is not required to conduct a separate inquiry for each new respondent. If any additional respondent(s) are identified during the investigation, the institution will notify them of the allegation(s) and provide them an opportunity to respond consistent with this subpart.

In conducting the investigation, the committee –

- (a) Will use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the allegations;
- (b) Will interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent; and

(c) Will pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

Interviews

The committee will interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent. The RIO will ensure that any interview conducted during the investigation is recorded, that a transcript of the recording is prepared, all relevant exhibits are numbered and references to any exhibits shown to the interviewee during the interview identify the number, the interviewee is provided a copy of the transcript for correction and the opportunity to comment on its contents, and the transcript and any comments of the interviewee are included in the record of the investigation.

The respondent will not be present during the witnesses' interviews, but the RIO will provide the respondent a transcript of each interview, with redactions as appropriate to maintain confidentiality.

Investigation Report

After gathering and examining the relevant evidence, the investigation committee will:

- (a) Prepare a draft investigation report;
- (b) Give the respondent a copy of the draft report, and, concurrently, a copy of, or supervised access to, the evidence on which the report is based; and
- (c) Provide notice to the respondent of his or her opportunity to provide a written response to the draft report within thirty (30) days of the date on which he or she received it.

The committee will ensure that any response submitted by the respondent is considered and included in the final investigation report. The committee will also give the University Counsel a copy of the draft investigation report.

The committee will then prepare a final investigation report to the Vice President. In the report, the committee will:

- (a) Describe the nature of and specific allegations of research misconduct considered in the investigation;
- (b) Describe and document any Federal or other external support;

- (c) List the inventory of sequestered research records and other evidence, except records the institution did not consider or rely on, and describe how sequestration was conducted. This inventory will include manuscripts and funding proposals that were considered or relied on during the investigation;
- (d) Include transcripts of all interviews conducted;
- (e) Identify and summarize the research records and evidence reviewed, including any scientific or forensic analyses conducted, identify any evidence taken into custody but not reviewed, and summarize the reasons why any evidence was not taken into custody;
- (f) Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and if misconduct was found:
 - (i) identify it as falsification, fabrication, or plagiarism and whether it was committed intentionally, or knowingly, or recklessly;
 - (ii) summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent's explanations;
 - (iii) identify any publications that need correction or retraction;
 - (iv) identify the person or persons responsible for the misconduct; and
 - (v) list any current support or known applications or proposals for support that the respondent or respondents have pending with any Federal agency;
- (g) Include and evaluate any response made by the respondent on the draft investigation report;
- (h) Include a recommendation as to whether the complainant should be notified of the results of the investigation and, if so, which parts of the report, if any, should be included in the notification;
- (i) Include any recommendations for administrative actions relating to the misconduct proceedings; and
- (j) Include any recommendations to assist the complainant or any other person who was harmed by the conduct found.

A recommendation to find research misconduct or dismiss the allegation must be a majority decision with any minority reports attached to the investigation report for the consideration by the Deciding Official.

The University has the burden of proof in making a finding of research misconduct. The respondent has the burden of presenting, and proving by a preponderance of the evidence, any evidence to support a complete or partial defense, and any mitigating factors relevant to a decision to impose administrative actions. In determining whether the University has carried the burden of proof imposed by this part, the finder of fact shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the respondent.

The investigation will ordinarily be completed within one hundred and eighty (180) days of the first meeting of the investigation committee. For proceedings that involve Federal support and research misconduct as defined by the funding agency, if the committee is unable to complete the investigation within the time prescribed by the funding agency, the Vice President will communicate with the agency regarding any requirements relating to an extension. For other proceedings, the Vice President may grant a reasonable and specified extension for good cause.

The Vice President will provide a copy of the final investigation report and decision to the respondent. This final report will be copied to the respondent's local unit administrator, Dean or Director, and the Deciding Official.

Where the investigative committee finds research misconduct in the investigative report, the Vice President will review the report and make a determination on behalf of the University as to whether research misconduct occurred and, if so, by whom, and whether the University accepts the findings of the investigation. The RIO will provide University Counsel with a copy of the report. The Vice President will recommend to the Deciding Official administrative actions the University should take against the respondent.

In addition to disciplinary administrative actions outlined in university policies and procedures, the Vice President may recommend administrative actions, including but not limited to:

- 1 – withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found,
- 2 – removal of the responsible person from the particular project, letter of reprimand, additional mandatory training in responsible conduct of research for the respondent and any individuals the respondent supervises, special monitoring of future work, probation,

suspension, salary reduction, initiation of steps leading to possible rank reduction or termination of employment consistent with university policy, and

3 – restitution of funds as appropriate.

The Deciding Official will determine what administrative actions the University takes against the respondent. The respondent has the burden of proving by a preponderance of evidence any mitigating factors that are relevant to a decision to impose administrative actions following a research misconduct proceeding. The RIO will monitor administrative actions.

If the decision is that the respondent committed research misconduct, the Deciding Official will provide notice to the respondent that he or she may appeal the finding and any administrative actions by filing a request for reversal or modification of the decision and grounds for that request with the Deciding Official within thirty (30) days of receiving the University's decision. The Deciding Official will issue a written decision on the appeal, including the reasons for the decision, normally within sixty (60) days of the date the appeal is filed. This written decision will be copied to the respondent's local unit administrator, Dean or Director, and the Vice President of Research (VPR) and RIO. If the University is unable to complete the appeal within the time prescribed by a funding agency, the RIO will communicate with the agency regarding any requirements relating to an extension. The RIO also will provide a final case report to funding agencies when required.

If the decision is that research misconduct did not occur, the University will undertake all reasonable, practical, and appropriate efforts to protect and restore the respondent's reputation at the request of the respondent.

5. Other Procedures and Special Circumstances

Multiple Institutions and Multiple Respondents

If the alleged research misconduct involves multiple institutions, the University may work closely with the other affected institutions to determine whether a joint research misconduct proceeding will be conducted. If so, the cooperating institutions will choose an institution to serve as the lead institution. In a joint research misconduct proceeding, the lead institution will obtain research records and other evidence pertinent to the proceeding, including witness testimony, from the other relevant institutions. By mutual agreement, the joint research misconduct proceeding may include committee members from the institutions involved. The determination of whether further inquiry and/or investigation is warranted, whether research misconduct occurred, and the institutional

actions to be taken may be made by the institutions jointly or tasked to the lead institution.

If the alleged research misconduct involves multiple respondents, the University may either conduct a separate inquiry for each new respondent or add them to the ongoing proceedings. The institution will give additional respondent(s) notice of and an opportunity to respond to the allegations.

Respondent Admissions

If a respondent confesses to research misconduct, this procedure may be modified by the RIO, in consultation with the Vice President, to accommodate necessary administrative actions earlier in the process and/or reduce or eliminate procedures that are not relevant.

The destruction of, absence of, or respondent's failure to provide research records adequately documenting the questioned research may be considered evidence of research misconduct if the University establishes, by a preponderance of the evidence, that the respondent intentionally, knowingly, or recklessly:

- (a) had research records and destroyed them;
- (b) had the opportunity to maintain the records but did not do so; or
- (c) maintained the records and failed to produce them in a timely manner

and that the respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.

Proceedings involving Public Health System supported research

These policies and procedures do not supersede or establish an alternative to the Public Health System (PHS) regulation or any existing regulations for handling research misconduct involving non-PHS supported research. They do not replace the PHS regulation, and in case of any conflict between this document and PHS regulation, the PHS regulation will prevail. They are intended to enable the University to comply with the requirements of the PHS regulation.

The University will cooperate with Office of Research Integrity (ORI) within the Department of Health and Human Services (HHS) during any research misconduct proceeding or compliance review, including addressing deficiencies or additional allegations in the institutional record if directed by ORI and to assist in administering

and enforcing any HHS administrative actions imposed on University community members.

The University will notify ORI in advance if at any point during the proceedings (including the assessment, inquiry, investigation, or appeal stage) it plans to close a research misconduct case because the respondent has admitted to committing research misconduct or a settlement with the respondent has been reached. If the respondent admits to research misconduct, the institution will not close the case until providing ORI with the respondent's signed, written admission. The admission must state the specific fabrication, falsification, or plagiarism that occurred, which research records were affected, and that it constituted a significant departure from accepted practices of the relevant research community. The institution will not close the case until giving ORI a written statement confirming the respondent's culpability and explaining how the institution determined that the respondent's admission fully addresses the scope of the misconduct.

Additional definitions specific to proceedings involving PHS-sponsored research include:

Accepted practices of the relevant research community. This term means those practices established by PHS regulations and by PHS funding components, as well as commonly accepted professional codes or norms within the overarching community of researchers and institutions that apply for and receive PHS awards.

Administrative record. The administrative record comprises: the institutional record; any information provided by the respondent to ORI, including but not limited to the transcript of any virtual or in-person meetings under PHS regulations between the respondent and ORI, correspondence between the respondent and ORI; any additional information provided to ORI while the case is pending before ORI; and any analysis or additional information generated or obtained by ORI. Any analysis or additional information generated or obtained by ORI will also be made available to the respondent.

Other Special Circumstances

At any time during the misconduct proceedings, the University will immediately notify the sponsoring Federal funding agency if any of the following circumstances arise:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
2. Funding agency resources or interests are threatened.
3. Research activities should be suspended.
4. There is reasonable indication of possible violations of civil or criminal law.

5. Federal action is required to protect the interests of those involved in the research misconduct proceeding.
6. The Federal funding agency may need to take appropriate steps to safeguard evidence and protect the rights of those involved.

6. Research Records

In cases where the research records or evidence encompass equipment or instruments shared by a number of users, custody may be limited to copies of the data or evidence on that equipment or those instruments, so long as those copies are substantially equivalent to the evidentiary value of the equipment or instruments.

Where appropriate, the University will give the respondent copies of, or reasonable, supervised access to, the research records. Consistent with its commitment to limit, to the extent possible, the disclosure of the identity of all parties involved in research misconduct proceedings, the University will provide other researchers who participated in the work similar access to sequestered records.

The University will undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding, including at the inquiry and investigation stages, or if new allegations arise.

7. Retention

The University will maintain all records of the research misconduct proceeding for seven (7) years after completion of the proceeding or any related proceeding of the funding agency, whichever is later, unless the proceeding involved Federal support and the University has transferred custody of the records and evidence to the appropriate Federal agency.