
RESPONSIBLE CONDUCT IN RESEARCH, INTELLECTUAL, AND CREATIVE ACTIVITY

Category: Research
Responsible Office: Vice President for Research
Responsible Executive: Provost

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Summary

It is the policy of the University at Buffalo to maintain high ethical standards in research and other scholarly work, prevent misconduct where possible, and promptly and fairly evaluate and resolve any instance of alleged or apparent misconduct.

Policy

POLICY STATEMENT

The University at Buffalo (UB, University), as an institution of higher learning, is dedicated to truth in pursuit of knowledge through research and scholarly activities, the transmission of such knowledge through education and instruction, and the application of discoveries to benefit the public good. The University has adopted the following principles of ethical conduct to guide those engaged in scholarly activity:

- Honesty and integrity in research hold the highest priority.
- Data, language, or analysis taken from other sources must include proper and clear attribution of source.
- Fabrication, falsification, and plagiarism are each violations of research integrity.
- Data are obtained by processes that comply with state and federal requirements affecting specific rules of research conduct.
- All authors of a manuscript prepared for publication take responsibility for the contents in precisely the same measure as they stand to take credit.
- After publication of research results, data are shared with others for scholarly purposes, provided these individuals do not have an explicit professional or personal conflict of interest with the author(s).
 - The Vice President for Research (VPR) will make the determination regarding any such conflicts of interest.

A dedication to these shared values by all faculty, students, fellows, and staff is crucial for the functioning of the University. In contrast, when any member of the University community disregards the accepted norms of scientific or scholarly inquiry, the entire community is diminished. Federal regulations define research misconduct as acts that are committed intentionally, knowingly, or recklessly. However, gross, inadvertent, or careless acts may also endanger public trust and the pursuit of scholarly truth and can be considered a form of misconduct. The University has an obligation to act and assumes responsibility for discouraging, detecting, and dealing with research misconduct involving:

- research
- research training
- applications for support of research or research training
- related research or scholarly activities.

Since a charge of research misconduct, even if unjustified, may damage an individual's career, any allegation of research misconduct must be handled in an expeditious and confidential manner. It is of paramount importance that full attention be given to the rights of all individuals involved.

BACKGROUND

In 2005, the federal government issued a revised version of regulations pertaining to research misconduct, 42 CFR Part 93. These federal regulations require that the University assume primary responsibility for the prevention, detection, and investigation of research misconduct and take action to ensure the integrity of research, protection of the rights of research subjects and the public, and observance of legal requirements related to federal research funding. Individual agency regulations differ in wording and emphasis. Information about the policies of particular federal agencies is available from the appropriate research coordinators in the Sponsored Projects Office.

University policies establish standards of ethical behavior for all members of the University community and prescribe procedures for due process and discipline for deviation from those standards. This Policy deals with violations of a subset of these standards and applies to prohibited conduct in proposing, carrying out, and reporting research.

APPLICABILITY

This Policy applies to all faculty, students, fellows, and staff at UB who are engaged in any manner of scientific or scholarly inquiry.

There are activities that this Policy does not cover but that may be addressed under other policies. For example, academic conduct by students as part of their normal course work is subject to the Code of Student Conduct. Other examples include, but are not limited to, authorship or other such disputes among collaborators, conflicts of interest, or possible misconduct that could occur while engaged in scholarly activities.

Additionally, there may be allegations of kinds of misconduct that do not fit within the definition of research misconduct and are better suited to a more flexible process than that set forth for research misconduct matters. In such instances, changes from the procedures must be fully documented and communicated to all those involved and must ensure fair treatment to the subject of the allegation.

DEFINITIONS

Complainant – a person or persons, who in good faith, make an allegation of research misconduct.

Good Faith Allegation – an allegation made with the honest belief that research misconduct may have occurred; an allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

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

Investigation – the formal development of a factual record and the examination of that record leading to a conclusion that the allegation does or does not constitute research misconduct. For a finding of research misconduct, the investigation may include a recommendation for appropriate actions including administrative actions.

Preponderance of Evidence – proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Research Misconduct – fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. (Federal Regulations 42 CFR Part 93)

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.

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

Research misconduct does not include honest errors or differences of opinion.

Research Record – the record of data or results that embody the facts resulting from scholarly inquiry, including but not limited to, research proposals, laboratory records (both physical and electronic), progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to the Office of the VPR by the individual accused of research misconduct in the course of the research misconduct proceeding.

Respondent – the person or persons against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

RESPONSIBILITY

All Employees

- Responsible for the integrity of the scholarly activity in which he or she is engaged.
- Promote the highest ethical standards within his or her profession.
- Report observed or apparent research misconduct, or situations where there are reasonable grounds to suspect research misconduct, to the Office of the VPR. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, or whether there are reasonable grounds to suspect research misconduct, he or she may call upon the Research Integrity Officer in the Office of the VPR to discuss the situation informally.

Vice Presidents, Deans, Department Heads

- Assist its members to understand the meaning and application of research misconduct within the context of the commonly accepted practices of that scholarly community.
- Make its members aware of this Policy on an annual basis and provide the Web address in the University Policy Library to every new member as soon as possible. Any failure of this notification process should not be construed as relieving any individual of their obligations for the responsible conduct of research.
- Where extramurally funded sponsored research requires a course on the responsible conduct in research, the unit or department will make known to its faculty, students, fellows, and

staff the availability of such courses. Self-training modules for the responsible conduct in research are accessible on the Web page of the Office of the VPR, under training.

Vice President for Research

- Annually remind all deans, department heads, and unit heads of their obligation to make their faculty, students, fellows, and staff aware of this Policy. Any failure of this notification process should not be construed as relieving any individual of their obligations for the responsible conduct in research.
- If the circumstances described by the individual do not meet the definition of research misconduct, or there are not reasonable grounds to suspect research misconduct, the VPR may refer the matter to other offices or officials with responsibility for resolving the problem, or may otherwise resolve the matter in a manner deemed appropriate.

PROCEDURE

The procedures outlined in this Policy are designed to provide a fair and orderly means of handling allegations or suspicions of research misconduct and to comply with federal regulations for research institutions.

University Guidelines in Matters of Research Misconduct

A finding of research misconduct requires that:

- there is a significant departure from accepted practices of the relevant scholarly community
- the research misconduct was committed intentionally, knowingly, or recklessly
- the allegation is supported by a preponderance of evidence.

The review process for determining whether research misconduct has occurred and for providing corrective action consists of three phases: inquiry, investigation, and disposition. The goal of these procedures is to ensure fair treatment for any person alleged to have committed an act or acts of research misconduct. Therefore, every inquiry and subsequent investigation (if any) will be based on a presumption of innocence until proven otherwise. It is not intended that the proceedings be adversarial; rather all phases of the procedure should be conducted in the spirit of peer review, and all parties involved with these proceedings will act in good faith in order to support a prompt and fair resolution of the research misconduct allegations.

At any stage of the proceedings any person accused of research misconduct (respondent) may consult with appropriate student, faculty, or professional advisory groups who are knowledgeable about such proceedings. The person consulted may serve as “ombudsman” to the respondent. The role of the ombudsman will be to offer advice and guidance regarding the procedural aspects of the investigation. The ombudsman may, if the respondent wishes, accompany the respondent to meetings with inquiry or investigating committees. The role of the ombudsman is limited to advising the respondent in the proceedings; the ombudsman shall not participate as an advocate on behalf of the respondent. The respondent may also consult with private legal counsel at their own expense; such counsel may accompany the respondent to meetings with inquiry and investigating committees but may not present the case, speak for the respondent, or otherwise participate in the proceedings.

When conducting inquiries and investigations that may follow allegations of research misconduct, the University will adhere to federal regulations, focus on the substance of the issues, and be guided by the following imperatives:

- The University will provide leadership in the pursuit and resolution of all allegations.

- The VPR will take the appropriate interim administrative actions required to protect public health; the health and safety of research subjects or patients; the interests of students and colleagues; sponsor's funds and/or other resources; and to preserve evidence and insure that the purposes of the sponsor's financial assistance are carried out.
- The privacy of those who, in good faith, report apparent research misconduct will be protected to the maximum extent possible.
- There can be no actions that are, or could be perceived as, retaliatory against a person who raises an allegation or is thought to have raised an allegation, or against committee members or witnesses involved in a research misconduct proceeding.
- Procedures must preserve the highest attainable degree of confidentiality compatible with an effective and efficient resolution. This includes all involved parties, including but not limited to, the complainant(s), the respondent(s), panel members, VPR, and other University staff or outside experts on a need-to-know basis.
- Faculty members and other appropriate individuals with expertise necessary to render a thorough and authoritative evaluation may be consulted throughout all stages of the inquiry and investigation, under confidentiality rules as stated above.
- All parties will be treated with attention to due process and with sensitivity to reputations and vulnerabilities.
- The process must avoid real and perceived conflicts of interest.
- All pertinent facts uncovered by inquiry or investigation must be documented.
- All materials related to an inquiry or investigation such as data, evidence, and transcripts of meetings and interviews shall be secured as needed by the University and shall be stored for a period of at least seven years after termination of the inquiry or investigation, or longer as required by regulation.
- All parties to the case shall speak for themselves and shall have the opportunity to present evidence and to recommend witnesses.
- Subject to the conditions outlined below, inquiry and investigating committees will determine the procedures governing their deliberations.
- The University will diligently pursue all significant issues and carry the inquiry and, if required, investigation through to completion. If the inquiry or investigation is to be terminated before completion, or without completing all requirements of applicable federal regulations, a report explaining the reasons for the termination will be submitted by the VPR to the Provost and, if external funds are involved, to the appropriate public or private agencies.
- If the circumstances concerning an allegation change substantially during the inquiry or investigation (e.g., the complainant(s) withdraws the allegation, the respondent acknowledges research misconduct or leaves the University, or additional allegations of research misconduct are rendered) the VPR will continue the inquiry or investigation to its conclusion, including notifying appropriate federal or other regulatory agencies, fulfilling the University's obligation to the integrity of its research, and any required correction of the scholarly literature, in consultation with federal or other regulatory agencies.
- After concluding an investigation of allegations of research misconduct with a finding of research misconduct, including all administrative reviews by appropriate federal or other regulatory agencies, the University will communicate with (1) the respondent(s) found to have committed research misconduct, and (2) as appropriate, the complainant(s), research sponsors, editors of publications, and others the VPR deems to have a legitimate need for pertinent information about the matter.
- When time periods are specified in this Policy, calendar days are used.

Procedures for Inquiry, Investigation, and Disposition of Alleged Research Misconduct

Inquiry

The purpose of an inquiry is to determine, as expeditiously as possible, if an allegation warrants a formal investigation. The inquiry should be conducted to protect the confidentiality of the respondent(s) and complainant(s), and allow for possible resolution. If a formal investigation is not warranted, the complainant(s) and respondent(s) will be advised accordingly.

Inquiries into allegations of research misconduct will proceed as follows:

1. Allegations of research misconduct may be made through any means of communication to the VPR by any concerned person(s) [hereinafter referred to as complainant(s)]. Allegations should bear the name of the complainant(s). Unattributed allegations will be evaluated, but the process functions most effectively when complainants identify themselves. The allegation should identify the person or persons claimed to have committed the research misconduct [hereinafter referred to as respondent(s)] and should identify the nature of the research misconduct.
2. Upon receipt of an allegation, the VPR will assess the allegation to determine whether there is sufficient evidence to warrant an inquiry and whether the allegation falls under the definition of research misconduct. In some cases it may be unclear initially whether a dispute or other situation should be properly characterized as an allegation of research misconduct. If the VPR determines that a situation should not be so characterized, the VPR will close the matter on that basis or recommend a different administrative process.
3. At the time of or before beginning an inquiry, the VPR will make a good faith effort to notify in writing the presumed respondent, or as soon as possible thereafter, consistent with the need to assemble appropriate expertise and secure potential evidence. One of the purposes of this initial inquiry is to eliminate an erroneous, unsubstantiated, or bad faith allegation of research misconduct. The respondent must be informed of the nature of the allegation and the procedures to be followed, and shall be provided a copy of this Policy.
4. After determining that the complaint is potentially one of research misconduct, the VPR will appoint an inquiry committee of appropriate impartial experts to initiate an inquiry into the allegation(s). The VPR will promptly notify the respondent of the proposed committee membership. If the respondent submits a prompt written objection to any appointed member of the inquiry committee or expert based on bias or conflict of interest, the VPR will determine whether to replace the challenged member or expert with a qualified replacement. Such a decision will be documented and communicated to the respondent, and the inquiry will move forward.
5. In cases where the VPR has a conflict of interest or the appearance of a conflict of interest, the allegation(s) will be referred by the VPR to an administrator designated by the Provost. The Provost's designee will then act in place of the VPR until resolution of the allegation(s).
6. At the earlier of the initiation of the inquiry or notification to the respondent, the VPR will take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct an inquiry, and if appropriate, an investigation,

- inventory the records and evidence, and sequester them in a secure manner. To the extent any such records or evidence are needed to continue ongoing research, copies of the records or evidence will be provided to the respondent(s).
7. The respondent(s) and all involved individuals are expected to cooperate by responding timely to requests for documents and/or information.
 8. In consultation with appropriate witnesses and experts, the inquiry committee will attempt to complete the inquiry and submit a written report of the outcome, the inquiry report, to the VPR and the respondent(s) within sixty days from the date of written notification to the respondent(s) that an inquiry has been initiated. If this deadline cannot be met, the inquiry committee will submit a request for extension, progress report, and the anticipated time frame for completion, to the VPR. All involved individuals will be informed.
 9. The inquiry report must include:
 - a) a statement of the original allegation
 - b) the name and position of the respondent
 - c) a statement of how the inquiry was conducted
 - d) a summary of the findings and the basis for the determination as to whether the charges warrant an investigation
 - e) recommendation(s) for action by the VPR
 - f) the sponsor of the research, noting if support is from Public Health Service.
 10. The respondent will be provided with a copy of the inquiry report and given the opportunity to comment on the allegation(s) or findings. Comments must be submitted in writing within fifteen days of receiving the inquiry report and will be included in the final inquiry report issued to the VPR.
 11. The VPR shall determine whether the allegations warrant a formal investigation based on the final inquiry report, and any other consultation deemed necessary. The basis for the decision will be fully documented.
 12. If the VPR decides that an investigation is not warranted, the VPR will notify all concerned. Every reasonable effort will be made to clear individuals of unsupported allegations, and if requested, to restore any damaged reputations, and protect the reputation and position of those who, in good faith, made allegations. The VPR may also examine the propriety of the initial charge. In cases where reasonable evidence suggests that the complainant did not act in good faith such that false allegations were knowingly made against the respondent, the VPR will recommend whether any administrative action should be taken against the person who failed to act in good faith.
 13. The VPR will maintain sufficiently detailed documentation to permit later reassessment of any reasons for determining that an investigation was not warranted. Such records will be maintained in a secure manner for at least seven years after the termination of the inquiry or longer as required by regulation.
 14. If the VPR decides that an investigation is warranted, the VPR will notify the respondent(s) in writing that an investigation is warranted. The notice will include a copy of the final inquiry report and a copy of this Policy. An investigation will be undertaken within thirty days of the completion of the inquiry, but not before a good faith effort is made to notify the respondent. Records of the inquiry will be used during any subsequent investigation. The University will promptly provide the respondent

written notice of any new allegations of research misconduct in order to pursue allegations not addressed during the inquiry or in the initial notice of investigation.

Investigation

If it is determined that an investigation is warranted and federal funds are involved, the VPR will notify the appropriate federal officials and provide them with a final inquiry report on or before the date the investigation begins.

The VPR will appoint a committee to conduct the investigation and designate the chair of the committee. The committee will be composed of three to five impartial members with appropriate expertise to evaluate the allegations. Whenever possible, and consistent with the needs of the investigation, committee members will be drawn from the faculty at UB. The VPR will promptly notify the respondent of the proposed committee membership after their appointment. If the respondent submits a prompt written objection to any appointed member of the investigating committee based on bias or conflict of interest, the VPR will determine whether to replace the challenged member with a qualified replacement. The decision will be documented and communicated to the respondent, and the investigation will move forward.

Investigations into allegations of research misconduct will proceed as follows:

1. The VPR will communicate to all parties in the investigation and will take all reasonable steps to ensure an impartial and unbiased investigation.
2. When the VPR or investigating committee requests materials or data, all parties to the investigation are expected to cooperate by producing them in a timely fashion.
3. All respondent(s) shall have an opportunity to address, in writing, any charges or evidence.
4. During the investigation, appropriate records of interviews, including recordings when practicable, will be maintained.
5. When federal funds are involved, the VPR will keep relevant officials apprised of any developments, and make all documentation available to the appropriate federal agencies.
6. The investigating committee will submit a written investigation report of its findings and conclusions to the VPR. The investigation report must include:
 - a) a statement of the allegation(s)
 - b) the name of the individual who made the allegation(s) (if known), and how the information was obtained
 - c) the name of the respondent
 - d) a description of the investigative procedures, a presentation of the evidence or lack of evidence of research misconduct including appropriate transcripts and/or accurate summaries of views of all individuals who made presentations to the committee, and all written documentation. (The standard of proof to be applied in research misconduct investigations will be a “preponderance of evidence” as required by federal regulation. In applying this standard, the University will place emphasis on confirmatory evidence.)
 - e) a statement of the findings and the basis for the findings, including, if the finding is one of research misconduct, whether the misconduct was falsification, fabrication, or plagiarism and whether the acts were committed intentionally, knowingly, or recklessly

- f) a statement indicating if the research was supported by extramural funding, including award identifiers
 - g) whether any publications need correction or retraction
 - h) whether there is any current support, known applications, or proposals that the respondent has pending with federal agencies.
7. The VPR must give the respondent(s) an opportunity to comment on the investigation report by providing a copy of the report, including a copy of or supervised access to, the evidence on which the report is based. The respondent's comments on the investigation report, if any, must be submitted within thirty days of the date on which the respondent received the investigation report.
 8. The committee will consider the respondent's comments and will incorporate them into the final investigation report provided to the VPR. The VPR will submit the final investigation report to the Provost together with a written recommendation regarding the disposition of the allegation.
 9. The VPR will take all reasonable steps to ensure that the investigation is completed within ninety days of its initiation, including preparation of the investigation report, elicitation of comments from the respondent(s), determination of the final disposition of the case, and submission of the final investigation report to the Provost.
 10. If the investigation cannot be completed within this time frame, a request from the VPR for an extension, a progress report, and the anticipated time frame for completion, will be filed with the Provost. All involved individuals will be informed. When federal funds are involved, the VPR will notify or submit a request to the appropriate federal officials, explaining the delay, providing a progress report, and estimating the date of report completion. If the request is granted, the VPR will submit periodic progress reports to the appropriate federal agencies, in compliance with applicable federal statutes.
 11. The VPR may be required to make the materials of both the inquiry and investigation available to a sponsoring agency and may need to inform a sponsoring agency immediately if any of the following conditions exist:
 - a) there is an immediate health or safety risk
 - b) federal agency interests or resources are threatened
 - c) research activities should be suspended
 - d) federal action is required to protect the interests of persons involved in the misconduct proceedings
 - e) the University believes the misconduct proceedings may be made public prematurely
 - f) there are reasonable indications of possible violations of civil or criminal law
 - g) the research community or the public should be informed.
 12. The VPR will provide a summary of the investigation's findings to the complainant(s).
 13. All materials related to an investigation such as facts, data, evidence, transcripts of meetings, and interviews, etc., will be secured as needed by the University and will be stored for a period of at least seven years after the termination of the investigation, or longer as required by regulation.

Disposition

The Provost will:

1. Make a final determination as to whether research misconduct has occurred based on the committee's investigation report and the VPR's recommendation.

2. Inform the respondent and all other interested parties accordingly.
3. Submit the final investigation report and any recommendations for further action to the President.
4. In the case of a determination that research misconduct has occurred, the Provost or Vice President will, at the direction of the President:
 - a) Institute disciplinary proceedings for the respondent(s) against whom allegations have been substantiated, consistent with established University and Board of Trustees policies and applicable collective bargaining agreements.
 - b) Transmit the conclusions of the investigation to the appropriate University officials, editors of journals or books in which research results of the relevant project(s) have been published or are being considered for publication, all funding sources related to the research, and the University community, as appropriate. When the person found to have committed research misconduct has been or is affiliated with other institutions, those institutions will be notified of the research misconduct as appropriate.
 - c) Forward the investigative report, a copy of the evidentiary record, recommendations made to the Provost, and response from the respondent(s) to the appropriate agency when federal funds are involved. When the disposition phase is complete, the Provost will forward his/her decision and notify the funding agency of any corrective actions taken or planned.
5. Upon completion of disciplinary proceedings, the Provost or VPR will report to the appropriate University officers or bodies, and when federal funds are involved, to the cognizant federal agency; and will cooperate with the federal agencies during their administrative review of the research misconduct case.

At the discretion of the Provost, relevant parties may be notified. The Provost will make reasonable and practical efforts, if requested and appropriate, to protect or restore the reputation of persons alleged to have, but not found to have, engaged in research misconduct. The Provost will also make reasonable and practical efforts, if requested and appropriate, to protect or restore the reputations and positions of complainant(s) who, in good faith, made allegations of research misconduct. The complainant may be subject to administrative or disciplinary action(s) if the evidence indicates they acted irresponsibly or dishonestly.

Appeal

The Provost is the final adjudicator of all allegations of research misconduct in scholarly activity subject to appeal to the President only on procedural grounds.

Within fourteen days after receiving written notification of the Provost's determination, the respondent may appeal to the President on the sole question of whether the procedures prescribed in this policy have been followed. The appeal must be filed in writing and must specify the nature of the procedural error. The President will issue a decision within thirty days, either affirming or vacating the Provost's determination in whole or in part, based on whether the investigative procedures were fully and fairly followed.

If federal funds are involved, the VPR will inform the cognizant federal agencies if the investigation has been reopened. The written decision on appeal will be conveyed by the President to the Provost, principal parties, and appropriate federal agencies.

Contact Information

Research Integrity Officer
Office of the Vice President for Research
University at Buffalo, 516 Capen Hall
Buffalo, New York 14260-1611

Phone: (716) 645-3321

Related Information

University Documents:

Code of Student Conduct

<http://www.student-affairs.buffalo.edu/judicial/09rulesp.pdf>

Responsible Conduct in Research Training Modules

<http://www.research.buffalo.edu/ovpr/training/rcr>

Other Documents:

[42 CFR 93](#)

Presidential Approval

John B. Simpson

John B. Simpson, President

6/14/10

Date