



THE RESEARCH FOUNDATION
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SUNY College at Old Westbury

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MEMORANDUM

TO: The College Community

FROM: Arthur H. Angst
Operations Manager 

DATE: March 11, 2019

RE: Misconduct in Science (MIS) Policy

Attached is a copy of the subject policy to be followed by the State University of New York College at Old Westbury in accordance with the U.S. Department of Health and Human Services, Office of Research Integrity, Misconduct in Science Policy. It is mandated that all research facilities receiving Office of Public Health Services funding not only have such a policy in place but that it be promulgated at least once a year.

Mr. Patrick Cadet, (516) 876-2739, who is the MIS Policy Officer, will work in confidence with anyone who reports a complaint. Oversight and compliance are extremely important issues within and for the research community.

Thank You.

AA:mw

cc: Len Davis
Dr. Patrick O'Sullivan
Patrick Cadet
Thomas Murphy

Attachment - Misconduct in Science (MIS) Policy

MISCONDUCT IN SCIENCE (MIS) POLICY

I. INTRODUCTION

A. Purpose

The purpose of this policy is twofold: to foster and to promote an atmosphere conducive to the responsible pursuit of research and to establish an apparatus for investigating allegations of misconduct in science for clearly and quickly separating the substantiated claims from the unsubstantiated. It is the responsibility of the Office of Sponsored Programs to ensure the promulgation of this policy throughout the College Community.

B. Key Terms

1. Misconduct in Science (MIS): fabrication, falsification, plagiarism or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting or reporting research. It does not include honest error or honest differences in interpretation or judgment of data.

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

3. Investigation: formal examination and evaluation of all relevant facts to determine if an instance of misconduct has taken place. If misconduct is confirmed, the investigation should determine that seriousness of the offence and the extent to any adverse effects resulting from the misconduct.

C. Statement of Principles for Implementing Policy

1. Every member of the SUNY College at Old Westbury Community has the responsibility of reporting misconduct in scientific work. No person raising serious allegation of misconduct will suffer any penalty, however frivolous, mischievous or malicious misrepresentation in alleging misconduct will not be tolerated and may result in action taken against the perpetrator.

2. SUNY College at Old Westbury shall take appropriate disciplinary action against any individual found guilty of misconduct. This will include disclosure to funding agencies, collaborating scientists and institutions, journal editors, professional associations, licensing boards and potential employers who request oral or written references.

3. This policy applies to scientific research and related scholarly writing conduct by any member of the Collage faculty or staff, student, technicians, or others, inclusive of those having applied for or received DHHS funding. The policy is not intended to address issues such as the conduct of students in fulfilling course requirements which are covered by other policies.

4. Institutional handling of allegations of misconduct in science includes one of the four stages:
 - a. an inquiry to determine whether the allegation of related issues warrant further investigation
 - b. when warranted, an investigation to collect and thoroughly examine evidence
 - c. a formal finding
 - d. appropriate disposition of the matter
5. As a general rule, the College will take no more than 60 days to conduct its inquiry and determine whether an investigation is warranted. If an investigation is to be undertaken, it will begin within 30 days of the conclusion of the inquiry and the institution shall generally take no more than 120 days to complete the investigation, prepare the report of findings, obtain the comments of the subject(s) of the investigation and make a decision on the disposition of the case.
6. The College will annually report to all funding and sponsoring agencies who require such reports as follows:
 - a. assurance that the institution has established an administrative process for viewing, investigating and reporting allegations of misconduct in science in connection with sponsored research and,
 - b. information on allegations, inquiries and investigations

D. Personnel

1. MIS Policy Officer is appointed by the Provost.
2. Responsibilities of the MIS Policy Officer:
 - a. to work confidentially with a complainant in the development of a specific, formal written complaint, if necessary
 - b. to submit complaints to MIS Committee
 - c. to maintain records of all complaints and institutional responses
 - d. to assist the MIS Committee in the conduct of the inquiry or investigation into allegations of misconduct
 - e. to report finding of MIS Committee to Vice President for Academic Affairs and
 - f. to inform sponsoring and funding agencies as appropriate
3. The MIS Committee shall be a standing committee.
4. Responsibilities of the MIS Committee:
 - a. to elect a chair
 - b. to conduct informal inquiries and formal investigations
 - c. to carry out evidence gathering duties as assigned by chair
 - d. to examine evidence and to make decisions when meeting as a whole body
 - e. to make recommendations to the MIS Officer

E. Liability Coverage

The involvement of faculty and staff in inquiries of investigations pursuant of these guidelines is considered as part of their employment duties and responsibilities within the meaning of Section 17 of the Public Officers Law.

II. INQUIRY AND INVESTIGATION OF ALLEGATIONS

A. Inquiry

1. As a first step in the process of inquiry, an initial report of alleged misconduct will be prepared in writing and sent to the MIS Officer. The accuracy of this report must be attested to by a statement signed by the person(s) making the allegations. The MIS Officer will submit complaint to the MIS Committee. The Committee will begin discussion of the complaint. If further information is needed, the chair shall assign investigation duties to the appropriate committee member. Every effort to safeguard all individual reputations and the integrity of the research will be made. Every effort to protect the interests, privacy, position and reputation of those who in good faith report apparent misconduct and others who offer evidence will be made. In addition, the MIS Officer will inform the Research Foundation Campus Operations Manager of the proceeding. He/She will take appropriate administrative actions to protect federal funds and ensure that the purposes of the federal financial assistance are being carried out.
2. The faculty member or other investigator whose research is the subject of the complaint shall be notified that a complaint has been lodged, the nature of the complaint and the procedures to be followed. The affected individual(s) will be granted confidential treatment to the maximum extent possible, a prompt and thorough examination and an opportunity to comment on allegations and finding of the inquiry.
3. Any evidence pertinent to the resolution of the issued shall be made secure by the MIS Officer during the inquiry.
4. The primary purpose of the inquiry is to separate unfounded allegations from those of a more substantive nature. Therefore, in order to avoid unwarranted clouds over the reputations of the accused, the inquiry shall be conducted in confidence. Immediate inquiries into each allegation or other evidence of possible misconduct must be completed within 60 calendar days of its initiation. Circumstances that clearly warrant a longer period must be determined by the MIS Officer and Committee. Inquiries that take longer than 60 days to complete must be documented to identify the reasons for exceeding the 60 day period.
5. At the end of the inquiry, the MIS Committee Chair will submit a report to the MIS Officer who will then submit it to the Vice President for Academic Affairs. The report shall include the initial report described in II. A.1, shall be in writing and shall contain the evidence reviewed, interview summaries and the conclusion of the MIS Committee as to whether the allegations are substantiated and the reasons therefore. The MIS Officer will maintain sufficiently detailed documentation of inquiries to permit a later review of the reasons for each assessment.

6. Copies of the inquiry report will be provided to any individual(s) against whom the allegation was made. Any comments made by the individual(s) may be made part of the record. Such records shall be maintained in a secure manner for at least three years after the terminations of the inquiry and shall, upon request, be provided to authorized representatives of any sponsoring or funding agency having a legitimate interest in them.
7. Precautions should be taken against real or apparent conflicts of interest on the part of those involved in the inquiry of offering evidence.
8. The Vice President for Academic Affairs shall determine on the basis of the written report of the inquiry and any other consultation deemed necessary, whether a formal investigation is warranted. Necessary and appropriate expertise (if appropriate) will be secured to complete a thorough and authoritative evaluation of the relevant evidence in any inquiry or investigation. In either case, the basis for the decision will be fully documented.
9. If the decision of the Vice President for Academic Affairs is that no investigation is warranted, the Vice President for Academic Affairs will notify all those concerned of the determination. The institution will undertake diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct when the allegations are not confirmed. The Vice President for Academic Affairs may also examine the propriety of the initial charge and take further action if appropriate.
10. If the decision of the Vice President for Academic Affairs is that an investigation is necessary, it shall be formally undertaken within 30 days of the completion of the inquiry.
11. The Vice President for Academic Affairs shall be responsible for submitting the inquiry report to the Office of Scientific Integrity and all appropriate funding agencies.

B. The Investigation

Administration Actions: If the decision of the Vice President for Academic Affairs is that an investigation is necessary, he/she shall so inform the MIS Officer who shall reconvene the MIS Office Committee. The Committee will conduct the investigation and prepare a report for the MIS Officer. In the conduct of the investigation, the MIS Committee may secure, as necessary and appropriate, expertise to carry out a thorough and authoritative evaluation of the relevant evidence. The MIS Officer must also undertake diligent efforts (as appropriate) to restore the reputations of persons alleged to have engaged in misconduct when allegations are not confirmed and to protect the positions and reputations of those persons who, in good faith, make allegations of scientific misconduct.

1. After administrative and legal consultation, the Research Foundation, the granting agency and any other parties potentially affected by the investigation will be informed of the decision to conduct an investigation by MIS Officer. Where there is reasonable indication of possible criminal violations, the appropriate funding agencies shall be notified within 24 hours of determination. The OSI (and all appropriate funding or sponsoring agencies) will be promptly advised of any developments during the investigation that disclose facts that may affect current/potential DHHS funding for Individual(s) under investigation or that the PHS

needs to know to ensure appropriate use of federal funds and to protect the public interest. The OSI will also be promptly informed when the investigation will be initiated on or before the date the investigation begins.

2. The MIS Officer will inform the subject of the investigation of the accusations and that a formal investigation shall be conducted and invite the subject to make written response to the allegations. Copies of the inquiry report must be provided to any individual(s) against whom the allegation was made. Any comments made by the individual(s) may be made part of the record.
3. The MIS Officer shall inform the subject of the investigation that he/she may consult, as the need arises on an ad hoc basis, with faculty members of his/her choice during the formal investigation.
4. The MIS Officer shall inform collaborator(s) in the research project under investigation and give them the opportunity to comment.
5. The MIS Officer shall provide the individual(s) who raised the allegations with those portions of the report that address their role and opinions in the investigation.
6. The MIS Officer shall take interim administrative actions, where appropriate, to protect federal funds and ensure that the purpose of the federal financial assistance are carried out.

Conduct of the investigation: During the course of the investigation, the MIS Committee shall:

1. Receive and review relevant documents, including but not necessarily limited to, relevant research data and proposals, publications, correspondence and memoranda of telephone calls.
2. Interview all individuals involved either in making the allegation or in giving evidence against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations. Complete summaries of these interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.
3. Seek additional information as necessary.
4. Consult, when appropriate, with expert(s) from outside the institution.
5. Take precautions against real or apparent conflicts of interest on the part of the individual(s) involved in the inquiry or investigation.
6. Protect, to the maximum extent possible, the privacy of the individual(s) who report apparent misconduct and provide to the extent possible, individuals confident treatment, prompt and thorough investigation and an opportunity to comment on allegations/findings of the inquiry/investigation.
7. Prepare and maintain documentation to substantiate an investigation's findings. This documentation will be made available to the Director of OSI and the funding agency.
8. Analyze and summarize results of the investigation.
9. Complete the investigation in a timely fashion to enable the Vice President of Academic Affairs to submit the report to OSI within the 120 day period.
10. Prepare and submit a written report (by the MIS Committee Chair or his/her designee) to the MIS Officer including a summary of the investigation, finding and

recommendations for further action. The MIS Officer shall then submit the same to the Vice President of Academic Affairs.

C. The Finding

1. The Vice President of Academic Affairs will submit a written report to the President of the results of the investigation. Included shall be:
 - a. A statement of accusations
 - b. A statement of findings
 - c. An indication of the evidence or lack of evidence of misconduct
 - d. An evaluation of the seriousness of any misconduct found
 - e. Recommendation for further action
2. The Vice President of Academic Affairs shall submit a copy of the report to the accused for rebuttal.
3. The Vice President for Academic Affairs shall forward to the President any written rebuttal by the accused as an addendum to the report.
4. Vice President for Academic Affairs shall submit the report to OSI within 120 calendar days of the initiation of the investigation.

III. DISPOSITION

Responsibility for recommending the nature and severity of disciplinary action will reside in the Vice President for Academic Affairs. If misconduct is confirmed, the Vice President for Academic Affairs shall make recommendations to the President for appropriate sanctions against the subject. The President, upon receiving the report of the Vice President for Academic Affairs and any statement of rebuttal by the accused, will make a final determination regarding what action shall be taken; the Vice President for Academic Affairs shall then formally notify all parties, including the awarding agency and the Research Foundation of that decision. If misconduct is confirmed, the college will take appropriate action in accordance with Article 19 of the Agreement between the State of New York and United University Professions. A faculty/staff member who is the subject of an inquiry or investigation has, as a matter of course, the right to consultation with counsel if he or she chooses. The faculty member, however, has the right to representation by counsel in institutional proceedings only after formal disciplinary charges have been filed in accordance with Section 19.8 of the Agreement between the State of New York and the United University Professions.

Consideration will also be given for formal notification to other concerned parties not previously notified, such as sponsoring agencies, funding sources, co-authors, co-investigators, collaborators, editors of journals in which fraudulent research was published, state professional licensing boards, editors of journals or other publications, other institutions, sponsoring agencies and funding sources which the individual has been affiliated, professional societies and where appropriate, criminal authorities.

IV. REPORTING REQUIREMENTS

- A. OSI (and all appropriate funding or sponsoring agencies) must be informed of when an investigation will be initiated on or before the date the investigation begins. At a minimum, the notification should include the name(s) of the person(s) against whom the allegations have been made, the general nature of the allegation and the application or grant number(s) involved.
- B. An investigation should ordinarily be completed within 120 days of its initiation. This includes conducting the investigation, preparing the report of findings, making that report available for comment by the subjects of the investigation and submitting the report to the OSI (and to all appropriate sponsoring or funding agencies). If they can be identified, the person(s) who raised the allegation should be provided with those portions of the report that address their role and options in the investigation.
- C. The institution is expected to carry its investigations through to completion and to pursue diligently all significant issues. If an investigation is terminated, without completing the relevant requirements, a report of the planned terminations (including a description of the reasons) must be made to the OSI (and to all appropriate funding and sponsoring agencies).
- D. The final report submitted to the OSI and other appropriate funding agencies must describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings and the basis for the findings and include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct as well as a description of any sanctions taken by the institution.
- E. If the institution determines that it will not be able to complete the investigation within 120 days, it must submit to OSI and the funding agency (and to all appropriate funding and sponsoring agencies) written request for any extension. The extension must include an explanation for the delay, an interim report on the progress to date, an outline of what remains to be done and an estimated date of completion. If the request is granted, the institution must file periodic progress reports if requested by the sponsoring or funding agency.
- F. The institution is responsible for notifying the Director, NIH, OSI (and all appropriate sponsoring or funding agencies) if it ascertains at any stage of the inquiry or investigation that any of the following conditions exist:
 - 1. There is an intermediate health risk involved.
 - 2. There is an immediate need to protect federal (and all appropriate sponsoring or funding agencies funds or equipment.
 - 3. There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is/are the subject(s) of the allegations and his/her/their co-investigators and associates, if any.
 - 4. There is the probability that the alleged incident is going to be reported publicly.

5. There is reasonable indication of possible criminal violation; in which case, the institution must inform the OSI and all appropriate sponsoring and funding agencies within 24 hours of first obtaining that information.

This policy draws freely upon the language and contents of the Guidelines for Misconduct in Science Policy established by SUNY College at Fredonia. It, in turn, drew upon many published and unpublished documents including the guidelines developed by the University of Texas, the State University of New York at Albany, SUNY Buffalo, SUNY Binghamton, SUNY Health Science Center at Syracuse, and the SUNY Colleges at Buffalo and Potsdam. SUNY College at Old Westbury also must thank Ms. Carol Berdar, Compliance Specialist of the Research Foundation of the State University of New York for her most professional help.