



Research Misconduct

Policy Type: Administrative

Responsible Office: Office of Research Integrity and Ethics, Office of Vice President for Research and Innovation

Initial Policy Approved: 05/18/1990

Current Revision Approved: 02/19/2018

Policy Statement and Purpose

Virginia Commonwealth University is committed to fostering an environment of uncompromising integrity and ethical conduct in its research and research-related activities. VCU’s mission includes creating new knowledge through research; applying that knowledge in teaching, public service, and patient care; preserving that knowledge in peer-reviewed literature of the discipline, university’s libraries, and databases; 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.

Research misconduct is prohibited. Faculty, staff, and students involved in any part of the university’s research endeavors must comply with this policy and applicable regulations. Principal investigators bear responsibility for the integrity of research performed under their supervision. Administrative unit heads must pursue reasonable monitoring to ensure the integrity of the activities conducted under their oversight. This policy applies to all research conducted at VCU, regardless of the funding status or source. This policy does not apply to authorship or collaboration disputes or allegations of self-plagiarism.

Noncompliance with this policy may result in disciplinary action up to and including termination from employment or dismissal from enrollment. VCU supports an environment free from retaliation. Retaliation against any employee who brings forth a good faith concern, asks a clarifying question, or participates in a research misconduct proceeding is prohibited.

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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. For example, the head of an administrative unit may be 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 research misconduct conveyed by written or oral communication to the Research Integrity Officer (RIO) or designee. For the purposes of this policy, a reported concern about research integrity does not constitute an allegation of research misconduct until determined by the RIO or designee to meet the definition of an allegation of research misconduct.

Complainant

Complainant means a person who makes an allegation about research misconduct. A complainant may or may not be affiliated with the university and may be anonymous.

Deciding Official

The Vice President for Research and Innovation (VPRI) is the institutional official who makes final determinations on behalf of the institution regarding whether: 1) an investigation will proceed if it is found to be warranted, 2) the institution accepts a finding of research misconduct, and 3) institutional actions will be administered.

Evidence

Evidence means any document, tangible or intangible item, testimony, or other matter having evidentiary value offered or obtained during a research misconduct proceeding.

Good Faith

Good faith means that an allegation is made or testimony is provided with the honest belief in the truth of one's statements based on information known to the complainant or witness at the time. An allegation of misconduct or testimony in a research misconduct proceeding is not made in good faith if done with knowing or reckless disregard of information that would negate the allegation or testimony.

Inquiry

Inquiry means a preliminary information gathering process to determine whether an allegation of misconduct in research or research-related activities has substance and warrants an investigation.

Investigation

Investigation means the formal evaluation and examination of all relevant facts and evidence to determine whether research misconduct occurred and, if so, who is responsible.

Preponderance of Evidence

Preponderance of evidence means when all relevant evidence is weighed, the research misconduct is more likely than not to have occurred.

Research

Research means a systematic experiment, study, evaluation, demonstration, or survey designed to develop or contribute to general or specific knowledge.

Research-related Activities

Research-related activities are ancillary activities that occur in support of research. Such activities include but are not limited to research proposals, presentations of preliminary results, presentations in meetings or conferences, posters, drafts, final written reports, and publications. For purposes of this policy, the terms 'research' and 'research-related activities' are broadly referred to as 'research.'

Research Integrity Officer (RIO)

The RIO, appointed by the vice president for research and innovation (VPRI), is the individual responsible for receiving and assessing allegations of research misconduct, assuring that there is a timely response to such allegations, ensuring the timely and thorough execution of relevant processes and proceedings, and disseminating communications to those involved in proceedings such as sponsors and agencies as well as those relevant to post-proceeding activities. Concerns about research integrity can also be addressed to the RIO. The RIO is authorized to name a designee and delegate responsibilities to professional staff or other consultants as needed. For purposes of this policy, reference to the RIO includes the RIO's designee.

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

Research Misconduct Proceeding

Research misconduct proceeding means any action related to an allegation of research misconduct undertaken pursuant to this policy, including but not limited to allegation assessments, inquiries, investigations, and appeals.

Research Record

Research 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, dissertations, oral presentations, internal or external reports, journal articles, books, and any documents and materials provided to, or accessed by, the RIO or an institutional official in the context of an allegation or research misconduct proceeding.

Respondent

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

Retaliation

Retaliation means an adverse action taken against a complainant, witness, or panel member by the university or one of its members in response to a good faith allegation of research misconduct or good faith cooperation with a research misconduct proceeding. Retaliation against any individual involved in a research misconduct proceeding is prohibited and subject to university sanctions.

University Member

University member means any person engaged, participating in, or directly or indirectly supervising a university research-related activity, including but not limited to a full- or part-time faculty or staff member; VCU official; student assistant; student, fellow, or trainee; visiting faculty member or researcher; volunteer; agent of VCU or the VCU Health System; or, when covered by a sponsored program agreement or other contractual arrangement, a contractor, subcontractor, subawardee, or their respective employees.

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

The Office of Research Integrity (ORI) oversees and directs U.S. 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 U.S. Food and Drug Administration. Research that is proposed to, or funded by, the PHS is under the purview of the ORI and applicable federal regulations at 42 CFR 93.

Contacts

The VCU Office of Research and Innovation officially interprets this policy. The VCU Office of Research and Innovation 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 Office of Research Integrity and Ethics within the Office of Research and Innovation.

Policy Specifics and Procedures

General Principles: In certain instances, procedures may be modified to the extent necessary to conform to additional requirements of funding agencies. Procedural modifications, and their justification, will be communicated to parties involved in the research misconduct proceeding.

1. Responsibility to Report Misconduct

Anyone having reason to believe that research misconduct by a university member has occurred, or is occurring, must immediately report the information to the RIO. Alternatively, concerns about possible research misconduct may be reported as described in the VCU policy *Duty to Report*. If the RIO determines the reported concern does not meet the definition of an allegation of research misconduct, the RIO may offer guidance and/or refer the individual or allegation to other university officers or officials with responsibility for resolving issues.

2. Cooperation with Research Misconduct Proceedings

University members must cooperate with the RIO and other institutional officials in reviewing allegations and conducting inquiries and investigations of research misconduct. University members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials. If the respondent, without admitting to the misconduct, elects to resign after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation panel will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

3. Protecting the Reputation of the Complainant

All members of the university community who receive or learn of a good faith allegation of research misconduct must treat the complainant with fairness and respect. All reasonable steps to protect the position and reputation of the complainant must be taken. 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 complainant's testimony is eventually required, anonymity may no longer be possible. The university will undertake efforts to protect complainants and other individuals who cooperate with the inquiry or investigation from potential or actual retaliation. Administrative steps to protect against retaliation may include but are not limited to seeking intervention by VCU Human Resources and discussions with the administrative unit head to develop actions to help assure protection.

4. Protecting and Restoring the Reputation of the Respondent

All members of the university community who receive or learn of an allegation of research misconduct must treat the respondent with fairness and respect and take reasonable steps to ensure that the procedures stated in this policy are followed. The university will not impede the ability of the respondent to continue their work during the inquiry and investigation phases unless

the RIO or VPRI determines there are compelling reasons to suspend the respondent's work or take such action during all or a portion of such a period. The respondent is considered to not have committed research misconduct unless and until a finding of such has been made in accordance with this policy. The university will make efforts to restore the reputation of the respondent when there has been no finding of research misconduct.

5. Confidentiality

The RIO and Panel members shall limit disclosure of the identity of respondents and complainants and any identifying information regarding research subjects to those who need to know, or as required by law, in order to carry out a thorough, competent, objective, and fair research misconduct proceeding. The respondent is responsible for maintaining confidentiality related to an allegation, inquiry, or investigation.

6. Admission of Misconduct in Research

The procedural stages described below anticipate denial of the allegation by the respondent. If the respondent, or another individual, admits to an allegation of misconduct at any stage, the RIO will develop a written statement that is fully responsive to the allegation after appropriate consultation with federal agencies and relevant university officials. Refer to potential sanctions described in the 'Post-proceeding Considerations' section below.

7. Custody of Research Records

On or before the date on which the respondent is notified of an allegation, the RIO, in consultation with the administrative unit head of the respondent and other university officials, as needed, will promptly take all reasonable and practical steps to obtain custody of all research records and evidence that may be necessary to pursue an allegation of research misconduct, including additional records or evidence that are identified as relevant to the allegation during the course of the research misconduct proceeding. Relevant electronic records and evidence will be sequestered. Physical records and evidence will be inventoried and secured and, when appropriate, the respondent and relevant individuals (e.g., research team members, witnesses) will be provided copies or given reasonably supervised access to the research records.

The lack of research records adequately documenting the research in question is evidence of research misconduct where it is established that the respondent's conduct constitutes a significant departure from accepted practices of the relevant research community, including but not limited to:

- Intentionally, knowingly, or recklessly destroying relevant research records
- Failing to maintain relevant records
- Failing to produce records in a timely manner

8. Notification of Special Circumstances

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal funds or equipment, or the integrity of the

ongoing research process. The RIO will, in consultation with other VCU officials (and ORI, if under ORI purview, or other agencies, as appropriate), take appropriate action if there is reason to believe that any of the following conditions exist:

- Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
- HHS resources or other public funds are threatened.
- Research activities should be suspended.
- There is a reasonable indication of possible violations of civil or criminal law.
- Federal action is required to protect the interests of those involved in the research misconduct proceeding.
- The research misconduct proceeding may be made public prematurely and HHS or other federal regulatory action may be necessary to safeguard evidence and protect the rights of those involved.
- The research community or public should be informed.

Conducting the Assessment

1. Reporting

An allegation of research misconduct must be reported to the university's RIO. The RIO will, in a timely manner, initiate an assessment of the allegation. If the RIO determines the allegation has merit, such that it appears to fall within the definition of research misconduct under this policy and is sufficiently credible and specific, the RIO will report the allegation to the respondent's administrative unit head or supervisor, as appropriate. The administrative unit head is responsible for notifying the relevant dean about the allegation. If the respondent is the complainant's supervisor, the RIO will report the allegation to the next higher supervisory level. The RIO will obtain custody of all research records and evidence on or before the date on which the respondent is notified of an allegation. If the RIO determines that the research misconduct allegation does not have merit, and is, rather, a concern about research integrity, the RIO will provide guidance and/or refer the complainant to offices or VCU officials with responsibility for resolving the concern, as appropriate. If it is determined that the allegation was baseless and malicious or reckless (i.e., made in bad faith), the matter will be dealt with in accordance with existing policies and procedures.

In some cases, a respondent may not be initially identifiable. Depending on the nature of the allegation, the respondent may be an individual no longer affiliated with VCU. In such situations, the RIO will determine next steps. Research misconduct allegations against student respondents regarding research that was undertaken as a part of a classroom activity will be referred to the Office of Student Conduct and Academic Integrity (OSCAI) or other designated office. Unless the misconduct is determined to be solely a part of a student classroom academic activity, referral to the OSCAI does not remove the allegation from the purview of this policy.

2. Assessment of Allegation

Within 10 business days of being notified of an allegation by the RIO, the administrative unit head, in consultation with the RIO (and dean, if the administrative unit head or RIO deem it necessary), will determine whether the allegation warrants an inquiry. An inquiry is warranted if the allegation falls within the definition of research misconduct under this policy, is sufficiently credible and specific so that potential evidence may be identified, and is within a six year time frame. An allegation concerning research misconduct that appears to have occurred more than six years earlier is not applicable under this policy with two exceptions: a) subsequent use, wherein the respondent continues or renews any incident of alleged research misconduct that occurred before the six-year limitation through the citation, republication, or other use of the research record that is alleged to have been fabricated, falsified, or plagiarized, or b) health or safety of the public, wherein a federal agency or the institution determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.

If an inquiry is warranted, the inquiry phase will be initiated. The RIO will notify the complainant (as relevant) and the respondent (if known), in writing, about the allegation of research misconduct, that an inquiry will occur, and the process that will be followed in pursuing the allegation. The respondent's relevant administrative unit head and dean will be informed in writing about the process that will be followed. The RIO will also give the VPRI a notice of a pending inquiry, maintaining confidentiality of the involved parties. The respondent will be afforded an opportunity to file a written response to the allegation and evidence leading to an inquiry, which is to be submitted to the RIO within 10 business days of receiving notification that the allegation has proceeded to the inquiry phase.

If an inquiry is not warranted, the RIO will retain a confidential record of the reasons for this determination. Accordingly, the respondent and complainant (as relevant for either) will be informed by the RIO that an inquiry is not warranted.

Inquiry Phase

1. Inquiry Panel

The purpose of the inquiry is to conduct an initial review of the evidence to determine whether an investigation is warranted, but not to determine whether research misconduct actually occurred or who was responsible. If an inquiry is warranted, an Inquiry Panel will be proposed by the relevant administrative unit head in consultation with the RIO and dean. The Inquiry Panel must be composed of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation and conduct the inquiry.

The panel will consist of three individuals (generally faculty members), one of whom will serve as the panel chair. Individuals external to VCU may be utilized as Panel members, as necessary, given the nature of the allegation and the expertise needed. The RIO will activate appropriate members of a standing Inquiry Panel, as available. If no standing Inquiry Panel is available, or additional panel members are needed, the administrative unit head or dean will request Inquiry Panel service from appropriate individuals.

The proposed Inquiry Panel membership will be communicated to the respondent and complainant, as relevant, by the RIO. The respondent will have the opportunity to submit a one-time challenge of one initial member of the Inquiry Panel. A challenge must be made in writing, state a compelling reason for the challenge, and be submitted to the RIO within five business days of the communication outlining the panel's composition. Resolution of a challenge will be made by the RIO and administrative unit head. If there is compelling evidence that any panel member cannot function in a fair and impartial fashion, the panel member will be discharged and a replacement appointed. When the composition has been finalized, the RIO or administrative unit head will formally appoint the members of the Inquiry Panel.

2. Inquiry Process and Final Inquiry Report

The RIO will prepare the charge for the Inquiry Panel that includes the timeline for completion, the allegation(s) and any related issues, the purpose of the inquiry, and the importance of confidentiality. The RIO or designee will provide materials to the panel and be present or available throughout the inquiry. The Inquiry Panel will examine relevant research records and materials and may interview the complainant, the respondent, and key witnesses. Any interviewee will be provided a transcript of their recorded interview and given five business days to review the transcript for accuracy (changes to the transcript are limited to correction of factual errors). The final corrected versions of any transcripts will be included in the official record of the proceedings. The panel will evaluate the available evidence and, in consultation with the RIO, decide whether an investigation is warranted. 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. In developing its findings, the Inquiry Panel will act by simple majority vote of the panel members. The Inquiry Panel Chair will lead the writing of the draft inquiry report in consultation with the RIO. The written inquiry report includes the following information: a) the name and position of the respondent; b) a description of the allegations of research misconduct; c) any federal grant support, including, for example, grant numbers, grant applications, contracts and publications listing sources of support; and d) the basis for recommending or not recommending that the allegations warrant an investigation.

If the Inquiry Panel finds that the allegation and evidence warrant an investigation, the RIO will send the draft inquiry report to the respondent. The complainant may be given a copy or excerpts of the report at the RIO's discretion. The respondent (and complainant, if applicable) will have a period of 10 business days from receipt to review and comment on the draft inquiry report. Any comments from the respondent or complainant, together with any comments or revisions from the Inquiry Panel, will be attached and become part of the final inquiry report. The RIO will submit the final inquiry report to the VPRI, administrative unit head, and the relevant dean. Within 10 business days of receipt, the Deciding Official (the VPRI) will determine whether an investigation will proceed. The RIO will accordingly notify both the respondent and the complainant (as relevant) in writing. Within 30 calendar days of the VPRI's determination that an investigation will proceed, the RIO will provide ORI or other federal agency (as relevant) with the VPRI's written decision and the final inquiry report.

If the Inquiry Panel does not find sufficient evidence in support of the allegation of research misconduct, both respondent and complainant are notified that an investigation will not be initiated.

As per the RIO's discretion, the respondent and complainant may receive all, some, or none of the draft report and, if applicable, will have the opportunity to respond to the report within five business days. Any responses become part of the final report. The RIO will submit the final inquiry report to the administrative unit head, and the relevant dean. If an allegation of research misconduct was referred to VCU by a federal agency, VCU may have an obligation to forward the final inquiry report to the VPRI and the referring agency even if the Inquiry Panel found that an investigation was not warranted.

The inquiry process, including preparation of the final inquiry report and the decision of the VPRI on whether an investigation will proceed, as relevant, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances warrant a longer period. If an extension is warranted, the inquiry record must include documentation of the reasons for exceeding the 60-day period. Documentation of the inquiry must be retained for seven years and made available to ORI or other federal agency on request.

Investigation Phase

1. Investigation Panel

If the VPRI determines an investigation will proceed, the Investigation Phase will be initiated. On or before the date on which the investigation begins, the RIO will notify the respondent of the allegation(s) that will be investigated. The RIO will take all reasonable and practical steps, on or before the date on which the respondent is notified of the investigation, to obtain custody of, inventory, or sequester in a secure manner all research records and evidence needed to conduct the investigation that were not previously sequestered before or during the inquiry.

Investigation Panel members will be proposed and contacted by the dean of the school or college (or unit head of the relevant unit) in which the respondent holds their primary appointment, in consultation with the RIO and VPRI, as needed. The Investigation Panel will be composed of five members who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation. One member will serve as the chair. All members of the Investigation Panel who are drawn from the VCU academic community should generally be full-time or emeritus faculty and at least two of the panel members should be knowledgeable in the scholarly or scientific discipline of the respondent. Up to two panel members may be from the Inquiry Panel. Additionally, up to two of the panel members may be drawn from outside the VCU academic community. In the event the respondent is not a faculty member, the inclusion of at least one panel member who is knowledgeable about, and representative of, the respondent's research role will be considered in lieu of a faculty member. The RIO will notify the respondent and complainant, as relevant, of the proposed Investigation Panel composition. The respondent will have the opportunity to submit a one-time challenge of the inclusion of one initial member of the investigation panel. Any challenge must be made in writing, state a compelling reason for the challenge, and be submitted to the RIO within five business days of the RIO's communication outlining the panel's composition. Resolution of a challenge will be made by the RIO and dean or designee. If compelling evidence is found that any panel member cannot function in a fair and impartial fashion, the panel member will be discharged and a replacement appointed. When the composition has been finalized, the dean will formally appoint the members of the Investigation Panel. The Investigation Panel must commence within 30 calendar days after the determination by the VPRI that an investigation will proceed.

The RIO will define the subject matter of the investigation in a written charge to the Investigation Panel. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegation. The RIO will work with the panel chair to convene the first panel meeting in order to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The Investigation Panel will be provided with relevant policies and regulations, as well as all materials reviewed by the Inquiry Panel. The RIO or designee will be present or available throughout the investigation to advise the panel as needed.

2. Investigation Process

The Investigation Panel: 1) uses diligent efforts to ensure that the investigation is thorough, sufficiently documented, and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation, 2) takes reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical, 3) interviews each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, 4) pursues diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, 5) continues the investigation to completion, 6) makes a determination of whether research misconduct occurred and, if so, who is responsible, 7) prepares a draft report and considers comments from the respondent and complainant (as relevant) and 8) submits a final report. Each interviewee will be provided a copy of their transcribed interview and given five business days to review the transcript for accuracy (changes to the transcript are limited to factual errors). The final corrected versions of the transcripts will be included in the final investigation report.

Should new allegations of research misconduct arise within the course of the investigation, the RIO will notify the respondent and allow a reasonable amount of time for the respondent to respond to the new allegations not addressed during the inquiry or in the initial notice of the investigation. New allegations may prompt the Investigation Panel to add one or more new respondents to the case. In the event new respondents are added, the RIO will determine next steps upon consultation with the dean, and institutional leadership, as needed.

If the respondent is having difficulty in the verbal presentation of their case, he or she may have assistance through an interpreter or other speaker. Such a person must be impartial to the case and cannot be an advocate. Additionally, the respondent may be accompanied by an advisor of his or her choice when he or she is before the Investigation Panel. The role of the adviser is limited to consultation with the advisee in private, but without material disruption of the proceedings. The RIO will communicate directly with the respondent during the investigation.

3. Final Investigation Report

In developing its findings, the Investigation Panel will act by simple majority vote of the panel members, based upon the preponderance of evidence. The Investigation Panel chair, in consultation with the RIO, will lead the writing of the report. The written investigation report contains the following information: a) a description of the nature of the allegations of research misconduct, b) a description of any federal support including, for example, any grant numbers, grant applications, contracts, and publications listing such support, c) a description of the specific allegations of research misconduct for consideration in the investigation, d) the institutional policies and procedures under which the investigation was conducted, e) a description and summary of the research records and evidence reviewed and any evidence taken into custody but not reviewed, and f) a statement of findings for each separate allegation of research misconduct identified during the investigation. Each statement of findings must: 1) identify whether the research misconduct was falsification, fabrication, or plagiarism and whether it was committed intentionally, knowingly, or recklessly, 2) summarize the facts and analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, 3) identify the specific federal support, 4) identify whether any publications need correction or retraction, 5) identify the person(s) responsible for the misconduct, and 6) list any current support or known applications or proposals for support that the respondent has pending with other federal agencies.

A finding of misconduct requires all of the following: 1) there be a significant departure from accepted practices of the relevant research community, 2) the misconduct be committed intentionally, knowingly, or recklessly, and 3) the allegation be proven by a preponderance of evidence. The Investigation Panel's report may recommend institutional actions to address the panel's conclusions, whether or not the Panel was able to make a final determination of research misconduct.

The RIO will give the respondent a copy of the draft investigation report for comment. At the RIO's discretion, the complainant may be provided with a copy of the draft investigation report, or relevant portions of it, for comment. The respondent (and complainant, as relevant) will be allowed 30 calendar days from the date they received the draft report to submit comments to the RIO. Upon request, and per RIO's discretion, the respondent will be provided all necessary information or be given supervised access to records in a timely manner to facilitate responses to the Investigation Panel. Neither the respondent or complainant will have access to panel minutes, summaries or notes prepared by the panel or individual panel members, deliberative documents, or other documents deemed confidential by the Office of University Counsel. Any comments from the respondent or complainant must be included and considered by the Investigation Panel for the final report. The final investigation report is to be submitted by the RIO to the VPRI, the dean, and the administrative unit head.

Within 15 business days of receipt, the Deciding Official (the VPRI) will determine whether the institution accepts the final investigation report, its findings, and some or all of the recommended institutional actions. If the VPRI determination varies from the findings of the Investigation Panel, the VPRI will explain in writing the basis for rendering a decision different from the findings of the Investigation Panel. Alternatively, the VPRI may return the report to the Investigation Panel with a request for further fact-finding or analysis. VCU has the authority to make a determination of research misconduct that exceeds regulatory provisions or may not fully align with federal regulations and practices, but is deemed to be appropriate given the particular circumstances of a case. The VPRI will notify the respondent in writing of the final institutional decision regarding

research misconduct. The RIO will notify the complainant, as relevant, of the institutional determination.

The investigation is to be completed within 120 business days of appointing the Investigation Panel, including conducting the investigation, preparing the draft report, providing the draft report for comment, arriving at an institutional determination, and sending the final report to ORI or other agency, as relevant. However, if the RIO determines that the investigation will not be completed within this 120 business day period, the RIO will notify the VPRI and request an extension from the federal agency, as relevant. If an extension is granted, the RIO will ensure that periodic progress reports are filed with the agency, if requested. The record of the investigation will include documentation of the reasons for exceeding the timeframe.

4. Appeal Provision

A respondent who has been found to have committed research misconduct may submit a limited appeal to the VPRI within 10 calendar days of receiving written notice from the VPRI of the institutional determination. Eligibility for appeal is limited to the following: 1) the respondent believes new information or evidence that has become available to the respondent since their written response to the Investigation Panel report may affect the institutional determination of research misconduct or 2) the respondent claims a procedural error led to the finding of research misconduct. The VPRI will make a decision regarding whether one of the conditions for a limited appeal is met. If met, the process utilized for the appeal remains under the discretion of the VPRI and will be communicated to the respondent. Should the VPRI determine that an appeal panel proceeding is warranted, it will be conducted by non-conflicted, appropriately qualified university members who will submit a recommendation to the VPRI to uphold or reverse the original finding of research misconduct. The RIO will request an appeal extension from ORI or other federal agency, as applicable. The appeal process, including the institutional determination, must be completed within 120 calendar days of its filing by the respondent. Within 10 calendar days after either receiving a) the appeal filing from the respondent if no proceeding is enacted or b) the recommendation from an appeal proceeding, the VPRI will arrive at a decision and notify the respondent as to the institution's final determination. The RIO will apprise the dean and administrative unit head of an appeal and its outcome. If the appeal reverses the institutional determination of research misconduct, the RIO will notify the complainant, as relevant.

5. Transmittal of the Final Report to ORI

Unless an extension has been granted, the RIO must, within the 120 business day period for completing the investigation or the additional 120 calendar day period for completion of any appeal, submit to ORI or other federal agency, as relevant: 1) a copy of the final investigation report with all attachments and any appeal documents, 2) a statement of whether the institution accepts the findings of the investigation report or the outcome of the appeal, 3) a statement of whether the institution found misconduct and, if so, who committed the misconduct, and 4) a description of any pending or completed institutional actions against the respondent.

Post-proceeding Considerations

1. Institutional Actions

If the VPRI determines that research misconduct is substantiated by the findings, the VPRI will notify the president of the university and determine the appropriate actions to be taken after consultation with the RIO and the relevant dean. Institutional actions may be imposed even if there was no finding of research misconduct against a respondent. Examples of institutional actions include but are not limited to:

- Withdrawal or correction of all pending or published abstracts and papers emanating from the research where allegations of research misconduct were supported
- Development, revision, or monitoring of standard operating procedures in research areas
- Removal of the respondent from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment
- Restitution of funds to the grantor agency as appropriate

A plan for institutional action will be developed and monitored by the VPRI, the dean, the RIO, and other VCU officials, as appropriate to the situation. The ongoing protection of confidentiality is required, to the extent possible, and remains an important value regardless of whether or not a research misconduct finding has been conferred by VCU or a federal agency,

2. Notification to Other Relevant Parties

Upon an institutional finding of research misconduct and the resolution of any appeal, the RIO will ensure adherence with all notification requirements of funding or sponsoring agencies and other relevant parties. Upon notification of the institution's determination, the relevant federal sponsor or agency may take additional actions.

3. Final Disposition of Records

Unless custody has been transferred to HHS (or another federal sponsor) or ORI (or other similar agency) has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven years after completion of the proceedings or the completion of any PHS or other agency's proceedings involving the research misconduct allegation. The RIO or designee is responsible for providing any information, documentation, research records, evidence, or clarification requested by ORI or other agency, so authorized by regulation, to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation.

In addition, the Office of Research and Innovation must maintain all of its records in a manner consistent with the Virginia Public Records Act (Virginia Code § 42.1-76 – § 42.1-91). The time period for records maintenance will defer to whichever timeframe is longest.

Forms

There are no forms associated with this policy and procedures.

Related Documents

1. National Science Foundation Regulations on Research Misconduct (45 CFR Part 689)
https://www.nsf.gov/oig/_pdf/cfr/45-CFR-689.pdf
2. PHS Policies on Research Misconduct (42 CFR Part 93)
https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title42/42cfr93_main_02.tpl
3. [VCU Code of Conduct](#)
4. VCU Policy: [Duty to Report and Protection from Retaliation](#)
5. VCU Policy: [Records Management](#)
6. VCU Policy: [Research Data Ownership, Retention, Access, and Security](#)
7. VCU Policy: [Responsible Conduct in Research and Scholarship](#)
8. VCU Policy: [Compliance with NSF and NIH Responsible Conduct of Research \(RCR\) Training Requirements](#)
9. VCU Policy: [Student Code of Conduct](#)
10. [VCU School of Medicine Faculty Mentoring Guide](#)
11. Code of Virginia *Virginia Public Records Act* (§ 42.1-76 – 42.1- 91)
<https://law.lis.virginia.gov/vacodepopularnames/virginia-public-records-act/>

Revision History

This policy supersedes the following archived policies:

04/05/2012	<i>Misconduct in Research and Scholarly Activities Policy</i>
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>

FAQ

1. What can be done to minimize the occurrence of research misconduct?

As a federal agency, ORI offers a variety of online educational resources for all members of the research community. The ORI has developed an infographic to emphasize best practices for supervisors to promote research integrity, which include being available and approachable, reviewing raw data, communicating expectations, providing training and guidance, and knowing your RIO. ORI also provides additional resources, including video tutorials, materials related to research misconduct proceedings, and course tools for teaching Responsible Conduct of Research (RCR). Training in RCR is required for students and trainees involved in certain types of funded research (see the VCU

policy [Compliance with NSF and NIH Responsible Conduct of Research \(RCR\) Training Requirements](#)). RCR education is highly recommended for both inexperienced and established researchers. Training opportunities and educational resources are available on the Office of Research and Innovation's website. See the [ORI website](https://ori.hhs.gov/) (https://ori.hhs.gov/) and the VCU Office of Research and Innovation's [Responsible Conduct of Research](#) and [Research Misconduct](#) website for further information.

2. What is the difference between research misconduct and research integrity?

The term 'research misconduct' is very specifically defined (see the Definitions section above). Concerns or allegations received by the RIO that align with the definition of research misconduct are addressed by this policy. Research integrity includes the use of honest and verifiable methods in proposing, performing, and evaluating research; reporting research results with particular attention to adherence to rules, regulations, and guidelines; and following commonly accepted professional codes or norms (from the National Institutes of Health (NIH) Office of Extramural Research Grants and Funding website). The practice of research integrity is described in the VCU policy on Responsible Conduct in Research and Scholarship as encompassing the following areas: data collection and management, authorship and publication practices, mentoring, and collaborations. Concerns reported to the RIO about research integrity will be taken seriously but will not follow the procedures outlined in this policy unless they are determined to be allegations of research misconduct. Authorship disputes are an example of research integrity concerns for which the RIO, if consulted, will offer guidance and referral.

3. What is the timeline for a research misconduct proceeding?

The table below indicates the timeframe for various activities involved in a research misconduct proceeding beginning with assessment and extending through appeal, as indicated by the case. The actual time needed for an activity may be shorter than the indicated timeframe. However, it is not uncommon that a particular activity requires more time and may support the need for an extension.

Assessment	
Activity	Time
Administrative unit head, in consultation with RIO, determines whether allegation warrants an inquiry	10 business days
Potential evidence sequestered by RIO	On or before date respondent notified of allegation
Respondent submits written response to the RIO regarding allegation (optional)	10 business days

Inquiry	
Activity	Time

Respondent submits written challenge of one Inquiry Panel member to RIO (optional)	5 business days
Interviewees review transcripts for accuracy	5 business days
Respondent/complainant, as applicable, review and comment on draft inquiry report (if investigation is warranted)	10 business days
Respondent/complainant review and comment on draft inquiry report (if applicable AND if investigation is not warranted)	5 business days
VPRI determines whether investigation will proceed	10 business days
Total inquiry process (without extension)	60 calendar days
RIO provides VPRI's determination and inquiry report to federal agency	30 calendar days

Investigation	
Activity	Time
Respondent submits written challenge of one Investigation Panel member to RIO (optional)	5 business days
Investigation Panel commences after VPRI determination	30 calendar days
Interviewees review transcripts for accuracy	5 business days
Respondent/complainant, as applicable, review and comment on draft investigation report	30 calendar days
VPRI determines whether institution accepts findings and recommended actions	15 business days
Total investigation process (without extension) including RIO's submission of final documents to federal agency	120 business days

Appeal	
Activity	Time
Respondent submits limited appeal to VPRI (optional)	10 calendar days

VPRI notifies respondent of appeal outcome (after appeal filed and no proceeding OR after appeal proceeding)	10 calendar days
Total appeal process including RIO's submission of final documents to federal agency	120 calendar days