

Research Misconduct Policy

Authority:	Chancellor
History:	Reformatted and revised December 12, 2006; December, 1996; April 1990
Source of Authority:	Public Health Service (PHS) Policies on Research Misconduct (42 CFR Part 93), Office of Science and Technology Policy, December 6, 2000, UNC Policy 500.7
Related Policies:	UNCW Ethics Policy, UNCW Conflict of Interest Policy, UNCW Institutional Review Board Policies and Procedures, UNCW Institutional Animal Care and Use Committee Policies and Procedures
Responsible Office:	Research Services and Sponsored Programs

I. Applicability

This policy applies to all persons involved in research and scholarly endeavors under UNCW auspices, regardless of employment status.

II. Introduction

Each member of the university community has a responsibility to create and foster an environment promoting intellectual honesty and the highest standards of academic integrity. Research misconduct constitutes unacceptable personal conduct with respect to scholarship and research. Disdain for misconduct in any aspect of research or scholarly endeavor must be upheld, as misconduct in any form is destructive of the standards the university attempts to instill in its students, the public perception of academia and academic disciplines, and the financial support of the government and other sponsors for scholarship and research.

III. Definitions

- A. “Complainant”— a person who in good faith makes an allegation of research misconduct.
- B. “Inquiry” – preliminary information-gathering and preliminary fact-finding that meets the criteria and follows the procedures set forth in this policy.
- C. “Investigation” – the formal search for and assessment of relevant facts to determine whether misconduct has occurred.
- D. “Research” – For the purpose of this policy, research means a systematic experiment, study, evaluation, demonstration, or survey designed to develop

or contribute to general knowledge. This definition includes all basic, applied, and demonstration research in all academic and scholarly fields.

- E. "Research Misconduct" – a significant departure from accepted practices of the relevant scholarly community, committed intentionally, knowingly, and/or recklessly, including but not limited to:
 - 1. Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.
 - a. Fabrication – inventing data or results and recording or reporting them.
 - b. Falsification – 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. The research record is any document or presentation, whether physical or electronic, resulting from the research project under question and includes, but is not limited to research proposals, laboratory records, progress reports, abstracts, theses, oral presentations, internal reports, books, dissertations, and journal articles.
 - c. Plagiarism – the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
 - 2. Research misconduct does not include honest error or differences of opinion.
 - 3. The allegation of misconduct must be proven by a preponderance of the evidence.
 - a. Preponderance of the evidence – proof by information that, when compared with the information opposing it, leads to the conclusion that the matter at issue is more probably true than not.
- F. "Respondent" – the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding, inquiry, or investigation.
- G. "Retaliation" – an adverse action taken against a complainant, witness or investigator in response to a good faith allegation or cooperation in the proceeding.
- H. Supervising Dean/Director – the dean of the school/college or director of the research center where the alleged research misconduct has occurred.

IV. Individual Reporting Responsibility

- A. It is the responsibility of all members of the university community to report research misconduct when it is known or suspected to have occurred. The first step that should be taken is to discuss the situation with and seek the advice of the department chair or director of the unit, unless there are concerns of impartiality or confidentiality. With or without the advice of the chair/director, any individual who, in good faith, has reason to believe an act of research misconduct has occurred or is occurring shall notify the supervising dean/director of the individual suspected of such misconduct.

- B. The report may be made by any means of written or verbal communication. If made verbally, the supervising dean/director shall record the allegation in writing and have the complainant sign the document signifying accuracy and completeness of the allegation.
- C. Retaliation against a complainant is strictly prohibited and actionable. Retaliation may result in disciplinary action up to and including dismissal from employment or expulsion from the university community.

V. Confidentiality

- A. To the extent allowed by law, those notified of research misconduct shall maintain the identity of respondents and complainants in a secure and confidential manner, and shall not disclose any identifying information regarding such individuals, except to: (1) those who require the information in order to carry out a thorough, objective, and fair research misconduct proceeding; and (2) an appropriate regulating federal agency conducting its review of the research misconduct proceeding and any collateral or subsequent proceedings.
- B. To the extent allowed by law, any information obtained during the research misconduct proceeding that might identify the subjects of research shall be maintained securely and confidentially and shall not be disclosed, except to those who require the information in order to carry out the research misconduct proceeding.

VI. Ensuring a Fair Proceeding

- A. The respondent shall strictly be considered innocent until proven otherwise.
- B. Those involved in the preliminary assessment, inquiry and investigative process shall take all reasonable steps to ensure an impartial and unbiased proceeding.
- C. The dean of the Graduate School and Research or his/her designee shall ensure that those conducting the inquiry or investigation possess appropriate expertise and/or discipline to carry out a thorough and authoritative evaluation of the relevant evidence and do not possess unresolved personal, professional, or financial conflicts of interest with the respondent, complainant, potential witnesses, or others involved in the matter. Any such conflict which a reasonable person would consider to demonstrate potential bias shall disqualify the individual from participation in the process.

VII. Preliminary assessment

- A. After receiving an allegation of research misconduct, the person receiving the allegation, if not the supervising dean/director, shall immediately report the allegation to the supervising dean/director, who in turn shall immediately report the alleged misconduct to the dean of the Graduate School and Research. The dean of the Graduate School and Research or his/her designee shall assess the allegation to determine if: (1) it meets the definition of research misconduct specified in this Policy; and, (2) the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

- B. Within five (5) business days of receiving the report of allegation, the dean of the Graduate School and Research shall instruct the supervising dean/director to begin an inquiry or notify the complainant that no further action will be taken. If more than one college/school or center is involved, the deans and director(s) shall confer to determine who shall handle the matter as the supervising dean/director. If no further action will be taken, the supervising dean/director shall provide the complainant with a letter explaining the decision and providing specific reason(s) why no further action is warranted at the time. The supervising dean/director shall send a separate letter to the respondent to inform the respondent that an allegation had been received, but warranted no further action, listing the specific reasons why no further action was taken.

- C. Either before or when the university notifies the respondent of the allegation, the dean of the Graduate School and Research shall promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory those materials, and sequester them in a secure manner, except in those cases where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.

- D. When the dean of the Graduate School and Research determines that an inquiry is appropriate, the dean of the Graduate School and Research shall notify the University's General Counsel of such determination, and shall notify the director of Sponsored Programs if the concerned research is externally funded.

VIII. Inquiry

- A. Inquiry Process. Upon instruction by the dean of the Graduate School and Research, the supervising dean/director shall immediately begin an inquiry. The supervising dean/director may conduct the inquiry personally or through such standing or ad hoc arrangements the dean determines. The purpose of the inquiry is to determine if credible evidence exists that misconduct has occurred for purposes of warranting a formal investigation. Therefore, the inquiry process should include the following:
 - 1. Notification to the respondent that an inquiry has been initiated.
 - a. The notification must include a description of the allegation, the estimated timeframe for completion of the inquiry, and instructions and deadline for submitting any comments in response to the allegations.
 - b. The notification must include a request for the respondent to surrender any research data, publications, correspondence, email, and memoranda of telephone calls that relate to the allegation, and any other evidence needed to assist in the inquiry.
 - c. The notification must explain that a more formal investigation may be initiated dependent upon the findings of the inquiry.
 - d. A copy of this policy must be attached to the notification.

- e. If the inquiry subsequently identifies additional respondents, the investigator shall send the newly identified respondents similar notifications.
 2. Examination of all relevant evidence.
 3. Interviews of the respondent, the complainant, and all witnesses identified as having relevant information. Consistent with all other university hearings, no legal counsel may be present at the interviews. The respondent may bring a senior member of the faculty to accompany him or her to the interview, but this person may not participate in the interview.
 4. Completion of a written inquiry report.
- B. Inquiry Report. The inquiry report must provide sufficient detail so that a decision may be made by the dean of the Graduate School and Research or his/her designee as to whether or not a full investigation is warranted. A preliminary inquiry report must be provided to the respondent, who must be given the opportunity to submit comments. Any comments must be submitted within ten (10) business days of receiving the preliminary report. The complainant must be provided that portion of the preliminary report that pertains to his or her involvement. Likewise, the complainant has ten (10) business days to submit comments on the portion of the report pertaining to him or her, if any.
- C. The final inquiry report must contain the following information:
 1. the name and position of the respondent(s);
 2. a description of the allegations of research misconduct;
 3. the name of any funding agency, if applicable, including any grant numbers, grant applications, contracts, and publications related to the research;
 4. a description of the information reviewed;
 5. a summary of interviews conducted;
 6. a recommendation as to whether or not a formal investigation is warranted; and
 7. any comments submitted by the respondent and/or the complainant.
- D. A copy of the final inquiry report must be provided to the respondent.
- E. Timeline for Completion. The inquiry process, including preparation of the inquiry report and giving the respondent a reasonable opportunity to comment on it, shall be completed within 60 calendar days of receipt of the allegation, unless the circumstances warrant a longer period. If the inquiry takes longer than 60 days to complete, the reviewer shall include documentation of the reasons for the delay in the inquiry record.
- F. Inquiry Determination.
 1. The supervising dean/director shall make a recommendation that a formal investigation is or is not warranted to the dean of the Graduate School and Research.
 2. The dean of the Graduate School and Research shall review the inquiry report and either adopt or reject the recommendation. If the dean of the Graduate School and Research determines that insufficient evidence of

misconduct exists, the process will be terminated and that decision shall be final. If the dean of the Graduate School and Research finds sufficient grounds for continuation, the supervising dean/director or designee shall begin the investigation within 30 calendar days of that determination. The dean of the Graduate School and Research shall issue a written determination of the decision and shall notify the University's General Counsel that a formal investigation is warranted.

IX. Investigation

- A. Notification to respondent. Within a reasonable time after determination that an investigation is warranted, but no later than 30 calendar days after that determination, the university shall notify the respondent(s) in writing of the allegations to be investigated. The university shall give respondent(s) written notice of any new allegations within a reasonable time after determining to pursue allegations not addressed in the inquiry or in the initial notice of the investigation.
- B. Notification to External Funding or Regulatory Agencies.
 1. If required, and in accordance with law and sponsor regulations, on or before the date on which the investigation begins, the dean of the Graduate School and Research shall send a copy of the inquiry report and the written determination of the decision to proceed with an investigation to the external funding agency and/or the Office of Research Integrity (ORI), as appropriate, with a copy to the director of Sponsored Programs.
 2. Upon request the university shall also send the external funding agency and/or appropriate regulating federal agency:
 - a. a copy of UNCW's institutional policies and procedures under which the inquiry was conducted;
 - b. the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and
 - c. the allegations considered in the inquiry.
- C. Completion Timeline. The supervising dean shall use his or her best efforts to complete the investigation within 120 calendar days of the date on which it began, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to the external funding agency. If it becomes apparent that the investigation cannot be completed within that period, the supervising dean shall inform the dean of the Graduate School. If necessary, the dean of the Graduate School shall promptly request an extension in writing from the appropriate regulating federal agency. This time period does not apply to separate termination hearings.
- D. Investigation Process. The supervising dean/director shall appoint an ad hoc investigation panel comprised of 2 or 3 individuals (at the dean's/director's discretion). No panel member shall be chosen from within the department or center in which the appointments of the respondent(s) or claimant(s) reside. In conducting all investigations, the ad hoc panel shall:

1. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the allegations;
 2. Notify the respondent sufficiently in advance of the scheduling of his/her interview so that the respondent may prepare for the interview.
 3. Interview each respondent, complainant, and any other available person who has been identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of investigation;
 4. When deemed necessary, obtain the assistance of experts within or outside the university to assist in the examination and evaluation of data.
 5. In accordance with law, pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion; and
 6. Consistent with all other university hearings, no legal counsel may be present at the interviews. The respondent may bring a senior member of the faculty to accompany him or her to the interview, but this person may not participate in the interview.
- E. The ad hoc investigation committee shall prepare the preliminary and final investigation reports in writing and provide the preliminary report to the respondent for comment. The respondent must submit any comments within thirty (30) calendar days of receiving the report.
- F. The final investigation report shall:
1. Describe the nature of the allegations of research misconduct;
 2. Describe and document the funding source, if any, including any grant numbers, grant applications, contracts, and publications;
 3. Describe the specific allegations of research misconduct considered in the investigation;
 4. Include the institutional policies and procedures under which the investigation was conducted;
 5. Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody, but not reviewed. If applicable, the report must describe any relevant records and evidence not taken into custody, and explain the reasons why relevant records and evidence were not taken into custody.
 6. Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and if misconduct was found, (i) identify it as falsification, fabrication, or plagiarism and whether it was intentional, knowing, or in reckless disregard, (ii) summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent's explanations, (iii)

- identify the funding source, if any; (iv) identify any publications that need correction or retraction; (v) identify the person(s) responsible for the misconduct, and (vi) list any current support or known applications or proposals for support that the respondent(s) has pending with any funding agencies; and
7. Include and consider any comments made by the respondent and complainant on the preliminary investigation report.

- G. The university shall promptly provide to the external funding agency or appropriate regulating federal agency after the investigation:
 1. a copy of the investigation report, all attachments, and any appeals;
 2. a statement of whether the institution found research misconduct and, if so, who committed it;
 3. a statement of whether the institution accepts the findings in the investigation report; and
 4. a description of any pending or completed administrative actions against the respondent.

X. Termination of Inquiry or Investigation

If termination of an inquiry or investigation before its completion is contemplated for any reason, the supervising dean/director shall report and discuss the matter with the dean of the Graduate School and Research prior to termination. When applicable, the university shall notify the appropriate regulating federal agency in advance if it plans to terminate an investigation prior to its completion.

XI. Restoring Reputations

A. Respondents

The university shall undertake reasonable, practical, and appropriate efforts to protect and restore the reputation of any person alleged to have engaged in research misconduct, but against whom no finding of research misconduct was made, if that person or other authorized representative requests that the university does so and a reasonable means to affect the restoration of reputation is available.

B. Complainants, Witnesses, and Committee Members

The university shall undertake reasonable and practical efforts to protect and restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against those complainants, witnesses and committee members.

XII. Right to Appeal

The respondent has the right to appeal a finding of research misconduct within fifteen (15) days of receipt of the final investigational report. The appeal shall be made in writing and directed to the Provost. Review by the Provost shall be made solely on the adequacy of the procedures followed, and not on the substantive findings or conclusions. Within fifteen (15) calendar days of receiving the appeal, the Provost shall make a determination, which shall be the final decision of the university.

XIII. Sanctions

- A. If the supervising dean or the dean of the Graduate School and Research concurs with the recommendations of the ad hoc investigation panel that sanctions and/or discipline are warranted, the dean of the Graduate School and Research shall refer the final report and recommendation for sanctions and/or discipline to the Chancellor or designee, who shall determine whether disciplinary action should ensue.
- B. In deciding what administrative or disciplinary actions are appropriate, the Chancellor or designee shall consider the seriousness of the misconduct, including, but not limited to, the degree to which the misconduct was knowing, intentional, or reckless; was an isolated event or part of a pattern; or had a significant impact on the research record, research subjects, or other researchers, institutions, or the public welfare.
- C. Administrative and disciplinary actions available include, but are not limited to, appropriate steps to correct the research record; letters of reprimand; the imposition of special certification or assurance requirements to ensure compliance with applicable regulations or terms of an award; suspension or termination of an active award; demotion; suspension; dismissal; or other discipline according to the appropriate policies applicable to students, faculty or staff.
- D. If sanctions or discipline result, the Chancellor or designee shall provide written notification to the dean of the Graduate School and Research, who shall append that information to the final report.

XIV. Notification to External Funding or Regulatory Agencies

Any notification made to the external funding agency or regulating federal agency shall be made by the dean of the Graduate School and Research, acting on behalf of the Provost. In emergency situations when the dean of the Graduate School and Research is not available to provide notification in a timely way, the director of Sponsored Programs is authorized to provide notification to funding and/or regulating agencies.

XV. Maintenance and Custody of Research Records and Evidence

The university shall take the following specific steps to obtain, secure, and maintain the research records and evidence pertinent to the research misconduct proceeding:

- A. Where appropriate, give the respondent copies of, or reasonable, supervised access to the research records.
- B. Undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding, including at the inquiry and investigation stages, or if new allegations arise, subject to the exception for scientific instruments in V. C. above.
- C. Maintain all records of the research misconduct proceeding for 7 years after completion of the proceeding, unless the university has transferred custody of

the records and evidence to the regulating federal agency or the university has been informed by the regulating federal agency that it no longer needs to retain the records.

- D. The Dean of the Graduate School and Research will be the custodian of research records and evidence.

XVI. Interim Protective Actions

- A. At any time during a research misconduct proceeding, the university shall take appropriate interim actions to protect public health, federal funds and equipment, and the integrity of the research process. The necessary actions will vary according to the circumstances of each case, but examples of actions that may be necessary include delaying the publication of research results, providing for closer supervision of one or more researchers, requiring approvals for actions relating to the research that did not previously require approval, auditing pertinent records, or taking steps to contact other institutions that may be affected by an allegation of research misconduct.
- B. The supervising dean/director shall notify the dean of the Graduate School and Research of any such circumstances. If the dean of the Graduate School and Research is unavailable to respond in a timely way, the director of Sponsored Programs may take interim action as necessary to protect federal funds and the purposes of the federal grant or contract that may be involved. Such action is administrative and not disciplinary. The director shall inform the dean of the Graduate School and Research of such actions.

XVII. Cooperating with Regulating Federal or External Funding Agencies

- A. The university will cooperate with and assist any regulating federal agency or external funding agency as needed, to carry out any administrative actions the agency may impose as a result of a final finding of research misconduct by the agency.
- B. The university will report to the regulating federal agency or external funding agency any proposed settlements, admissions of research misconduct, or institutional findings of misconduct that arise at any stage of a misconduct proceeding, including the allegation and inquiry stages.
- C. The university shall cooperate fully and on a continuing basis with the regulating federal or external funding agency during any oversight reviews of this institution and its research misconduct proceedings and during the process under which the respondent may contest agency findings of research misconduct and proposed administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all witnesses, research records, and other evidence under our control or custody, or in the possession of, or accessible to, all persons that are subject to our authority.

XVIII. Notification of Special Circumstances that may Require Protective Actions

If any of the following circumstances are discovered during any part of a research misconduct proceeding, the supervising dean shall immediately notify the dean of the Graduate School and Research, who shall immediately notify the appropriate regulating federal agency:

- A. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
- B. HHS resources or interests are threatened.
- C. Research activities should be suspended.
- D. There is a reasonable indication of violations of civil or criminal law.
- E. Federal action is required to protect the interests of those involved in the research misconduct proceeding.
- F. The university believes the research misconduct proceeding may be made public prematurely, so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.
- G. The university believes the research community or public should be informed.