

## Policy on Misconduct in Research and Service

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### 2 Introduction

Institutions of higher education have maintained a centuries-old tradition of integrity and objectivity. The University of Tennessee (“University”) is pleased with the overall support given by its faculty, staff, volunteers and students in upholding this tradition and wants to ensure that the highest level of integrity in all academic activities is continued. In recent years, a few well-publicized cases of misconduct in research, including fabrication of results, plagiarism, and misrepresentation of findings, have aroused concern among institutions of higher education, individual investigators, sponsors of research, professional societies, and the general public. Although verified instances of such dishonest behavior are relatively rare, they do indicate the need to be diligent in protecting the integrity of academic work and the stewardship of public and private funds. Allegations of dishonesty by members of the university community must be dealt with carefully and thoroughly and with appropriately defined procedures if a university is to merit continued public confidence and trust. It is with the intent of formally defining the institutional support for integrity in research and service and defining the appropriate procedures for addressing allegations of misconduct in research and service that this Statement of Policy on Misconduct in Research and Service has been adopted.

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### 4 Applicability

This policy applies to the research and service activity of the faculty, staff, volunteers, and students of The University of Tennessee, except as provided in the following paragraph with respect to Public Health Service (PHS) supported research, research training, or related activities. With respect to students, however, this policy does not apply to activities carried out in credit courses unless the associated research or service activities involve external funding. [See Hilltopics for the policies applicable to student activities in credit courses.](#)

Biomedical or behavior research, research training, or activities related to research or research training supported by the Public Health Service (PHS), and applications for PHS support, shall be subject to the PHS Policies on Research Misconduct, 42 Code of Federal Regulations Part 93. Allegations of research misconduct involving PHS supported research, or an application for PHS support, will be handled in compliance with the requirements of the PHS Policies on Research Misconduct, a copy of which is attached as Addendum A to this policy.

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#### A. Definitions

##### **Inquiry**

Inquiry means the second stage of the University's fact-finding examination of an allegation of Research Misconduct, after the Pre-Inquiry has determined there are genuine issues of material fact to warrant a more in-depth examination of the allegation.

##### **Investigation**

Investigation means a process that occurs after the Inquiry. It is a formal examination and evaluation of all relevant facts and other evidence. The process is used to determine if research misconduct has occurred.

##### **Pre-Inquiry**

Pre-Inquiry means the initial stage where the merits of an allegation are examined. If the Research Integrity Officer finds that the allegation contains material issues, he or she will

make an initial determination as to whether to proceed with a formal Inquiry.

**Research Integrity Officer**

Research Integrity Officer (“RIO”) means the Associate Vice Chancellor for Research. Appointed by the Vice Chancellor of Research, the RIO is responsible for coordinating the entire process from the Pre-Inquiry to Post-Investigation Phase. The RIO is the person to whom initial complaints and allegations should be directed. In addition, the RIO shall make initial determinations of whether an allegation significantly meets the definition of misconduct, appoint the Inquiry and Investigation Committees, and oversee the entire process.

**Research Misconduct**

Research misconduct means a departure from the accepted practices of academic or scientific research. Such a practice occurs when an individual intentionally or with knowledge falsifies or fabricates data, reporting, or research findings.

**Research Record**

Research Record means any reports, data, documents, computer files, X-Rays, specimens, videos, photographs, photocopies, files, records, manuscripts, publications, notes, contracts, proposals, computer hardware or software, or any oral statement memorialized in writing.

**Respondent**

Respondent means a person to whom this policy applies and against whom an allegation of research misconduct is directed. There can be more than one Respondent in a Pre-Inquiry, Inquiry, or Investigation.

**Sponsor or Sponsoring Agency**

Sponsor or Sponsoring Agency means the governmental agency or agencies, public or private entities, or their representatives that provide funding or resources for research. Sponsor or Sponsoring Agencies usually support research through grants and/or agreements.

**6 Responsibilities of the University**

The University of Tennessee will instruct its faculty, staff, volunteers, and students to promote and encourage integrity in all research and service endeavors; will act vigorously to discourage and detect misconduct in research or service; will take appropriate disciplinary action against any of its faculty, staff, volunteers, or students who engage in such misconduct, as revealed by a careful Investigation; and will inform and cooperate with appropriate sponsoring agencies, organizations publishing findings, and other appropriate organizations and institutions that appear likely to have been affected by such misconduct. The University’s faculty, staff, volunteers and students are to work collegially to create an environment where misconduct will not be tolerated.

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**8 Dissemination of Policy and Procedure**

The Vice Chancellor for Research is responsible for ensuring that faculty, staff, volunteers, and students are informed of this policy and of its significance. Questions regarding a specific allegation, Inquiry, or Investigation should be directed to the Office of the General Counsel.

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## **10 Confidentiality**

The University will make every reasonable effort to limit voluntary disclosure of information about an allegation of misconduct to those within and outside of the University with a need to know. The University is subject, however, to the Tennessee Public Records Act, and the records of any Inquiry or Investigation do not fall within any statutory or judicially recognized exception to the Act.

### **B. Allegations**

Any individual who has reason to believe that he or she has knowledge of an act of misconduct within the meaning of this policy by any University faculty, staff, volunteer or student is responsible for communicating this information to a supervisor, department chairperson, dean or director, or other appropriate administrator. Upon learning of the allegation, that person shall report the allegation to the RIO. The University will make every reasonable effort to protect the confidentiality of the Complainant who, in good faith, makes an allegation of misconduct and also protect the individual from retaliation by any University official. If an allegation is later shown to have been made maliciously and falsely or not in good faith, the University may take appropriate disciplinary action against the individual who made the allegation.

### **C. Pre-Inquiry**

When the RIO learns of the allegation, the RIO will notify the Vice Chancellor for Research that he or she will conduct a Pre-Inquiry to determine if the allegation meets the definition of research misconduct. The RIO will begin the Pre-Inquiry by meeting with the Complainant. The RIO will make an initial determination concerning the subject matter of the allegation, whether the accused individual falls within the scope of the policy, and if the allegation warrants further evaluation or examination. The RIO has the authority to determine if the allegation lacks any basis and may dismiss the allegation altogether. The RIO is charged with recording the reasons for dismissing the allegation and notifying the Complainant of the RIO's findings. The entire Pre-Inquiry stage shall take no more than ten business days, unless the Vice Chancellor approves an extension for a good cause.

If the Complainant is dissatisfied with the decision to dismiss the complaint, he or she may request a review by the Vice Chancellor for Research. This request must be submitted to the RIO within ten business days of receipt of the notification for dismissal. The Vice Chancellor shall determine within ten business days whether to reverse the RIO's decision.

If the RIO finds that there are significant issues, questions, or facts that warrant further inquiry, examination, or evaluation, the RIO, in consultation with the Vice Chancellor for Research, will appoint a three-person Inquiry committee, composed of individuals with the appropriate expertise to conduct an Inquiry. After the RIO has made a determination to proceed with an Inquiry, the RIO must initiate the Inquiry within five business days of such determination and must notify the Respondent in writing of the allegation. The notification to the Respondent shall include the nature of the allegation, a copy of the University's policy regarding Research Misconduct, and a statement that the Respondent has the right to retain legal counsel.

## **11 Inquiry Stage**

The purpose of the Inquiry is to determine if sufficient grounds exist for conducting an Investigation. The RIO, upon appointing a committee, will notify the University's General Counsel office that an Inquiry will be conducted. The RIO will take careful precautions against real and apparent conflicts of interest on the part of those involved in the Inquiry. An essential component of the Inquiry will be for the Respondent to present evidence orally or in writing as appropriate.

The Inquiry must be completed within thirty calendar days of its initiation unless the RIO determines that circumstances clearly warrant a longer period. The record of the Inquiry should include documentation of the reasons for exceeding the thirty-day period.

### **1. Inquiry Committee**

The Inquiry Committee must review the allegation and the entire Research Record. The Inquiry Committee shall review the Research Record and determine if the allegation is well-founded. The Inquiry Committee may interview the Respondent and the Complainant and, with permission from the RIO, may seek expert assistance in its Inquiry.

The Inquiry Committee must review the Research Record, conduct any interviews, and submit a final Inquiry Report in writing to the RIO within thirty calendar days following the receipt of the Research Record, unless the RIO approves an extension for good cause. If the extension is approved, the RIO shall document the extension and the circumstances warranting the extension, include it in the Research Record, and notify the Respondent in writing of the extension.

### **2 . Inquiry Report**

The Inquiry Committee shall make an Inquiry Report which documents its findings and shall submit it to the RIO. The Inquiry Report shall include:

- a. name and title of each member of the Inquiry Committee,
- b. name and title of any expert consulted,
- c. a general summary of the process used in its Inquiry,
- d. a list identifying and describing any records or other evidence used, reviewed, and relied upon by the Inquiry Committee,
- e. a summary of each interview conducted,
- f. the Inquiry Committee's determinations, conclusions, and recommendation regarding whether a formal Investigation is necessary,
- g. any additional recommendations of the Inquiry Committee, and
- h. the research materials and other written records that were used in the Inquiry.

### **3. Inquiry Decision**

If the Inquiry Committee determines that the allegation of Research Misconduct is unfounded, it will recommend to the RIO that no further examination is necessary and that the allegation be dismissed. If the Inquiry Committee determines that the allegation of research misconduct has genuine issues that warrant further evaluation, it shall recommend that the RIO should proceed with an Investigation.

Within five business days of receipt of the Inquiry Report, the RIO shall submit the Inquiry Report and the RIO's own recommendation to the Vice Chancellor for Research and to the

University's General Counsel. The Vice Chancellor, in consultation with the University's General Counsel, has ten days upon receipt of the Inquiry Report to determine whether an Investigation is necessary. The Vice Chancellor shall notify the RIO of the determination. If the Vice Chancellor determines that the process should be terminated, the RIO shall note the decision in the Research Record and notify the Respondent. If the Vice Chancellor determines that an Investigation is necessary, the RIO shall provide the Respondent with a copy of the Inquiry Report and notify the Complainant of the findings. The Respondent has ten business days to make any comments or submit any records Respondent deems necessary. The Respondent shall direct all correspondence to the RIO.

#### **D. Investigation**

If, as a result of the Inquiry, sufficient grounds exist for further examination, the RIO, in consultation with the Vice Chancellor of Research and the University's General Counsel, will initiate a full Investigation within ten business days of the receipt of the Respondent's comments, if any. At that time, the RIO, in consultation with the Vice Chancellor of Research, will appoint an Investigation Committee. The RIO will notify the Sponsor or Sponsoring agency, if any, by submitting copies of the Inquiry Report and the Respondent's comments. The RIO will then disclose in writing the Complainant's identity to the Respondent. The purpose of the Investigation is to examine and evaluate relevant facts to determine whether misconduct has taken place. If necessary, the RIO shall secure any additional pertinent documents that were not previously obtained during the Inquiry and submit them to the Investigation Committee as soon as practicably possible. A description of the additional records shall be disclosed to the Respondent.

This Investigation will be conducted by a panel of at least three full-time University faculty and administrative staff. The panel shall include at least two University faculty members who have expertise in the area of research or service under Investigation and who do not hold administrative appointments. Additional individuals may be appointed to provide expertise related to the specific allegations or evidence in the case. If necessary, additional faculty members with required expertise may be drawn from academic institutions other than the University, or such individuals may be consulted by the panel. All members of the panel must be free of any potential conflict of interest regarding any activity of the Investigation. In the event that there are not three members from the University that would meet the qualifications, the panel may be filled by faculty from other academic institutions. The University will take careful precautions against real or apparent conflicts of interest on the part of those involved in the Investigation. To avoid even the appearance of a conflict of interest, the RIO should consider the inclusion of faculty from disparate disciplines and may consider the Respondent's views regarding the composition of the committee.

The Investigation Committee will examine the final report of the Inquiry, the Research Record, any comments made by the Respondent, and a full statement of allegations which shall be prepared by the RIO. The Investigation may also include: a review of files, reports, and other documents at the University or in the public domain; a review of procedures or methods and inspection of laboratories, laboratory materials, specimens, and records of the subject(s) of the Investigation; interviews with witnesses; a review of any documents or other evidence provided by or properly obtainable from parties, witnesses, or other sources; and a review of records

\*\*\* COMMITTEE PROPOSAL \*\*\*

maintained by and properly obtainable from relevant funding agencies. Whenever possible, the Investigation Committee should conduct interviews of all individuals involved, including Complainant and Respondent, as well as other individuals who might have information regarding key aspects of the allegations. The Investigation Committee must complete the Investigation within sixty calendar days of the receipt of the Inquiry Report and must also make an Investigation Report within the sixty-day period. The Investigation shall take no more than sixty calendar days, unless an extension is approved by the Vice Chancellor for Research.

The Investigation Report shall be organized as follows:

1. General Background including:
  - a. Chronology
  - b. General information on the Sponsor or Sponsoring Agencies, if any
2. General Nature of Allegations:
  - a. Including a summary of Respondent's response, if any
3. Inquiry:
  - a. General Recommendations and Findings from Inquiry Committee
  - b. Description of process or methods used in Inquiry
  - c. Names of individuals interviewed
  - d. Description of evidence reviewed
  - e. Attachments of any correspondence and evidence
4. General Investigation Information:
  - a. Composition of Investigation Committee
  - b. Names of individuals interviewed and summaries of interviews
  - c. Evidence reviewed
5. Investigation:
  - a. Detailed analysis of relevant evidence reviewed referencing evidence supporting Investigation Committee's findings
  - b. The Committee's Determination regarding whether research misconduct occurred
  - c. Committee's concerns and the effect of the Research Misconduct, including: risk of harm to subjects of research or University, publications, funding, or any other relevant concerns the Committee deems necessary to include in the Investigation report
6. The final recommendations of the Investigation Committee regarding whether misconduct occurred, the extent of the misconduct, and its effects on published or otherwise disseminated data or conclusions. The report may also include any separate individual statements from committee members.
7. All documents used in the Investigation.

Upon completing the Investigation, the Investigation Report shall be submitted to the RIO. Within five business days of the RIO's receipt, the RIO shall submit the Investigation Report to the Respondent for comment. Within ten business days, the Respondent may comment on the Investigation Report in writing and/or request an opportunity to respond in person. Should the Respondent respond in person, he or she may be accompanied by legal counsel or other person of his or her choice. If Respondent chooses to comment in person, the Respondent shall make his or her comments to an individual or group of individuals appointed by the Vice Chancellor for

Research.

Within three business days of receipt of Respondent's oral or written comments, the RIO shall submit the comments to the Investigation Committee. The Investigation Committee shall review the comments, incorporate them into its Investigation Report and comment, if necessary. Within ten business days of receipt of the comments, the Investigation Committee shall submit the entire report to the RIO. The RIO shall transmit the Investigation Report to the Vice Chancellor for Research and the University's General Counsel.

The University will strictly adhere to all requirements of sponsoring agencies, if any, including filing of interim progress reports and keeping all agencies apprised of any developments which may affect current or potential funding. Interim administrative actions will be taken, as appropriate, to protect involved sponsoring agency funds and ensure that the purposes of the funding are carried out. The University, through its RIO or other designated representative, will notify each sponsoring agency as soon as it ascertains that any of the following conditions exist: (1) there is an immediate health hazard; (2) there is an immediate need to protect agency funds or equipment; (3) there is an immediate need to protect human or animal subjects of the research or service work; (4) there is an immediate need to protect the interests of the person(s) making the allegations or of the subject(s) of the allegations; (5) it is probable that the alleged incident is going to be reported publicly. Sponsoring agency officials will be informed within 24 hours if, after consultation with University legal counsel, an Inquiry or Investigation indicates possible criminal violations. Sponsoring agencies will be notified of the final outcome of any Investigation, including any sanctions taken against any Respondent.

#### **E. Decision and Notification**

Within ten business days of receiving the Investigation Report, the Vice Chancellor for Research shall transmit the Report to the Chancellor of the appropriate campus, along with the Vice Chancellor's own recommendation regarding whether misconduct has occurred. If the Vice Chancellor's decision or recommendation differs from that of the Investigation Report, the Vice Chancellor for Research shall explain in written detail, which must be based in sound scientific reasoning, the basis for disagreement with the Investigation Committee's recommendations. If necessary, the Vice Chancellor for Research may return the report to the Investigation Committee and request additional fact finding and analysis. Within twenty calendar days of receiving the Report, the Chancellor shall make a final decision regarding whether misconduct has occurred. If the Chancellor disagrees with the findings of the Investigation Report, he or she may either adopt the Vice Chancellor for Research's reasons for disagreeing (if any) or must explain in written detail, which must be based in sound scientific reasoning, the basis for disagreement.

The RIO is charged with notifying the Respondent and the Complainant in writing of the University's final decision of the case. The Vice Chancellor for Research will determine whether any law enforcement agencies, professional societies, ~~or~~ licensing boards, publishers, managers of data archives (including managers of University-managed databases such as TRACE), or other relevant parties should be notified of the University's decision. It is the RIO's responsibility to ensure compliance with any notification requirements to Sponsors or Sponsoring agencies.

\*\*\* COMMITTEE PROPOSAL \*\*\*

If an allegation of misconduct is substantiated, the Chancellor shall initiate the applicable faculty, staff, or student disciplinary procedure, and sanctions. If the individual is a faculty member, action will be taken as specified in the applicable *Faculty Handbook*. If the individual is a staff member, action will be taken as specified in *The University of Tennessee Personnel Policies and Procedures*. If the individual is a student, action may be taken as specified in the applicable Student Handbook. If the individual is a student and an employee, action may be taken as specified in the applicable Student Handbook and in *The University of Tennessee Personnel Policies and Procedures*. If the individual is a volunteer, sanctions will rest with the Chancellor.

**F. Unsubstantiated Allegations: Restoration of Reputations**

If, upon conclusion of this process, an allegation of misconduct is found not to be substantiated by proper evidence, the RIO will undertake diligent efforts to give notice to all persons who participated in the Inquiry and Investigation that the allegations against the Respondent were untrue, unfounded, or incorrect.