Research Misconduct Policy and Procedures

POLICIES

I. Introduction

Research rests on a foundation of public support and mutual trust. Therefore, any allegation of research misconduct, irrespective of discipline, is a serious matter that must be dealt with deliberately. This ensures that New Jersey City University's traditional standards are upheld and that the University, those associated with it, and the discipline involved, are all publicly recognized for their integrity.

The policy and procedures outlined below are designed to comply with federal regulations. Federal policies and regulations specific to the Department of Health and Human Services (HHS) are available at http://www.ori.hhs.gov/. NJCU policies and regulations are generally applied in all cases of research misconduct, in addition to those of the HHS. Provided below is NJCU's Research Misconduct Policy, which specifies the procedures and appropriate safeguards for responding to allegations of research misconduct.

II. Definition of Research Misconduct

According to the relevant federal regulations, research misconduct is fabrication, falsification, plagiarism, or other practices that seriously deviate from those commonly accepted within the academic community for proposing, performing, reviewing or reporting research results. Research misconduct is to be distinguished from honest errors and differences of interpretation. A finding of research misconduct requires that:

a) There is a significant departure from the accepted practices of the relevant research community;
b) The misconduct is committed intentionally, knowingly, or recklessly; and
c) The allegation is demonstrated by a preponderance of the evidence. (§ 93.103, 42 CFR Part 93)

Research Misconduct at NJCU includes, but is not limited to the following:

Fabrication: Making up data or results and recording or reporting them.

Falsification: Manipulating research materials, equipment, and/or processes, and/or changing or omitting data or results such that the research is not accurately represented in the research record.

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

Abuse of confidentiality, including benefiting from the use of ideas and preliminary data gained from access to privileged information, such as the editorial review of manuscripts submitted to journals or the peer review of proposals being considered for external funding or by internal committees, including the Institutional Review Board (IRB).

The misuse of any data, including the reporting of incomplete results where the reporting of all results would influence any conclusions.

Failure to comply with policies for the protection of human subjects.

III. Conditions

At NJCU, research misconduct as defined is prohibited. Researchers must comply with all applicable local, state, and federal laws, regulations, and guidelines, University policies, and contractual and grant requirements.

This policy applies to all persons affiliated with NJCU, including, but not limited to, faculty, staff, students, trainees, and all members of the research staff**.** In addition to this policy, any allegation of research misconduct that involves students will also be subject to all disciplinary rules governing students.

The policy applies equally to:
(a) The conduct of research and/or related activities, whether or not the research is externally funded;
(b) The presentation and/or publication of research results; and
(c) The process of applying for research funds.

Persons found to have committed research misconduct are subject to disciplinary action recommended by an appropriate administrator from NJCU in consultation with the Office of Research Grants and Sponsored Programs. In addition, the findings will, where appropriate, be reported to external entities or authorities and the external entity or authority may take additional action. Disciplinary action proceedings shall be in accordance with applicable University policies, codes, procedures, and/or collective bargaining agreements.

This policy is limited to research misconduct occurring within six years of the date on which the Executive Director of the Office of Research Grants and Sponsored Programs (ED) receives an allegation of misconduct. Exceptions to the six-year limit include renewed allegations of misconduct and those having substantial effect on the health or safety of the public.

IV. Confidentiality of Respondents and Complainants
Once an allegation of academic misconduct has been received by the ED, to the extent possible, the University will maintain the identity of Respondent(s) and Complainant(s) securely and confidentially and will not disclose any identifying information except to those needing to know in order to carry out a thorough and objective research misconduct proceeding.

PROCEDURES

I. Phases
When an allegation of research misconduct is reported to the ED, the ED will initiate a two-phased procedure:

I.1. Inquiry—a preliminary review to determine whether the accusations constitute good faith allegations of research misconduct (See 93.200), and an initial review of the evidence to determine if the criteria for conducting an investigation have been met. (See 93.212)

I.2. Investigation—an Investigative Committee will be appointed to determine whether it is more likely than not that research misconduct has occurred and, if so, to make recommendations with respect to the imposition of disciplinary sanctions. (See 93.215)

Inquiry - The ED, serving as NJCU's research integrity officer (RIO), initially assesses the reported incident to determine if it constitutes a good faith allegation of research misconduct. This initial assessment shall be completed within 30 business days of the receipt of the report or the event giving rise to the report. In the event that the ED cannot complete the assessment within this time frame, the ED shall document the reasons for the delay and complete the assessment as soon as is practical.

The ED, in consultation with the appropriate University official(s), will assess the allegation to determine if it meets the definition of research misconduct.

If the ED determines that an inquiry is not warranted, the ED will inform the Complainant(s) and Respondent(s) in writing, and the matter will be considered closed (subject to section 1e below).

If the ED concludes that a good faith allegation of research misconduct has been made and continuing an Inquiry is warranted, the ED will initiate a process, beginning with the notification of the Complainant(s) and Respondent(s) within 60

calendar days. The purpose of this phase of the Inquiry is to conduct an initial review of the available evidence to determine whether an allegation warrants an investigation and what additional records may be needed.

Notification of Complainant(s) and Respondent(s) and Maintenance and Custody of Research Records and Evidence - the ED will notify the Complainant(s) and Respondent(s) in writing that an Inquiry has been initiated. The Respondent(s) will also be provided with the institutional policies and procedures for research misconduct allegations.

To obtain, secure, and maintain any pertinent research records and evidence, the ED will:

Either prior to or when NJCU notifies the Respondent(s) of the Inquiry, promptly take all reasonable and practical steps to obtain custody, inventory, and securely sequester all research records and evidence necessary to conduct a complete research misconduct proceeding. In cases where 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, provided those copies are equivalent to the evidentiary value of the instruments themselves.

Confidentiality of the research records and evidence will be maintained. When appropriate, the Respondent(s) will be given copies of, or reasonable, supervised access to the research records.

The University shall make every reasonable and practical effort to take custody of any additional research records and evidence discovered during the course of the research misconduct proceeding, including any new allegations, with the exception of scientific instruments (as previously noted).

Unless the ED has transferred custody of the records and evidence to HHS or ORI has advised the University that the ED no longer needs to retain them, as defined in 42 CFR Section §93.317(a), the University shall maintain all records of the research misconduct proceeding for seven years after the completion of the proceeding or any ORI or HHS proceeding under Subparts D and E of 42 CFR Part 93, whichever is later.

Appointment of the Inquiry Committee - The ED will appoint an Inquiry Committee and designate the chair within 10 business days of notifying the Respondent(s) of the Inquiry. The Inquiry Committee should consist of three individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise. The Committee will evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, conduct the balance of the Inquiry, and prepare a report of its findings. Committee members may be subject matter experts, administrators, lawyers, or other qualified persons.

Notification to Respondent(s) of Committee Members - The ED will notify the Respondent(s) of the proposed committee membership within 15 days of the Committee's formation. The Respondent(s) will then have 7 business days to question, in writing, any Committee member's bias or conflict of interest. The ED will determine whether there is evidence of bias or conflict warranting replacement of the challenged member(s).

Inquiry Report - The inquiry report shall contain the following information:

- The name and position of the Respondent(s).
- A description of the allegation of research misconduct.
- If appropriate, the grant support involved, including, for example, grant numbers, grant applications, contracts, and publications listing grant support.
- A description of data reviewed and interviews conducted.
- If applicable, the basis for recommending that the alleged actions warrant an investigation.

After receiving the draft Inquiry Report, the Respondent(s) will have 7 business days as comment period. The Inquiry Committee may either attach the comments to the report and/or make corrections in the final report. The ED may grant

additional response time if circumstances warrant. In its final report, the Inquiry Committee will include a determination of whether an Investigation is warranted, based on the Inquiry and the Federal guidelines Sec. 93.307. The ED shall notify the Respondent(s) of the result of the Inquiry and attach copies of the final Inquiry Report to the notification. If the Committee concludes that an Investigation is warranted, the ED shall begin an Investigation within 30 calendar days of that determination.

Investigation - Following a determination that an Investigation is warranted, the ED will form an Investigative Committee no later than 30 calendar days after that determination.

Appointment of the Investigative Committee - The ED will select Investigative Committee members on the basis of pertinent research expertise and absence of personal, professional, or financial conflicts of interest with the Respondent(s), Complainant(s) or others involved in the matter. Any such conflict which a reasonable person would consider to demonstrate potential bias shall disqualify an individual from selection. The members of the Investigative Committee shall select the Chair, who will be responsible for issuing all required communications and scheduling all necessary meetings, interviews, and other events.

The composition of an Investigative Committee depends upon the status of the Respondent(s).

In the case of bargaining unit faculty members, the Investigative Committee will consist of at least three tenured NJCU faculty members. In the case of other academic researchers (e.g., visiting scholars, post-doctorate fellows, professional researchers, non-faculty academics), the Investigative Committee will include a member of the researcher's peer group and one or two tenured faculty. In the case of a student, the Investigative Committee will be comprised of one to three tenured faculty and a designee from the Office of the Dean of Students.

In all cases, the ED will notify the Respondent(s) of the Investigative Committee's composition as well as the procedures that will be followed in the course of the Investigation. The Respondent(s) has/have 7 business days to question, in writing, any Committee member's bias or conflict of interest. The ED will determine whether there is evidence of bias or conflict of interest warranting replacement of the challenged member(s).

Unless circumstances warrant, the Investigation phase must be completed within 120 calendar days of the appointment of the Investigative Committee. This time frame includes conducting the investigation, preparing a draft report of findings, any appeals, and sending a final report to ORI, if appropriate. If the investigation is extended beyond 120 calendar days, the reasons for doing so must be documented. This time period does not include any disciplinary hearings.

The ED shall instruct the Investigative Committee to:

Ensure that the Investigation is thorough, including an examination of all research records and evidence relevant to reaching a decision on the merits of the allegations and well documented

Pursue all new issues and leads determined relevant to the Investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

Take all reasonable steps to ensure an impartial and unbiased research misconduct proceeding are carried out. Interview each Respondent, Complainant, and any other individual with information about any relevant aspects of the investigation, including witnesses identified by the Respondent(s).

The Committee should record and transcribe each interview and then provide the recording and transcript to each interviewee to correct any transcription errors; all recordings and transcripts should be included in the record of the Investigation.

Each respondent shall be notified of his/her interview in writing no less than 5 business days prior to its scheduled date. Each respondent has the option to arrange for legal counsel to be present at his/her interview. In the event a Respondent intends to have legal counsel present at the interview, the Respondent shall inform the ED of this intent no later than 3 business days prior to the interview.

The Investigative Report - When the Investigation is completed, the Investigative Committee shall write a draft report of the results that reviews the facts and states its findings, and submit it to the ED. The ED will make the draft report available to the Respondent(s) for comment.

The draft Investigative Report shall:

- Describe the nature of the allegations of research misconduct.
- Describe and document any grant support, including grant numbers, grant applications, contracts, and publications.
- Describe the specific allegations of research misconduct considered in the investigation.
- Include the institutional policies and procedures under which the investigation was conducted.
- Identify and summarize the research records and evidence.
- Identify any evidence taken into custody, but not reviewed. Describe any relevant records and evidence not taken into custody and explain why.
- 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, identify it as falsification, fabrication, plagiarism or other, and determine whether it was intentional, knowing, or in reckless disregard.
- Summarize the facts and the analysis supporting the conclusion, including consideration of the merits of any explanation by the Respondent(s) as well as any evidence that rebuts any explanation by the Respondent(s).
- Identify any publications requiring correction or retraction, and list any current support or known applications or proposals for support that the Respondent(s) has pending.

The Respondent(s) shall have 21 calendar days to submit comments on the draft Investigative Report and any new evidence to the ED. The Investigative Committee shall subsequently include and consider any comments and any new evidence provided by the Respondent(s) in the Final Investigative Report, which it will submit to the ED. If appropriate, the Investigative Committee will send a separate and confidential communication to the ED regarding any disciplinary recommendations.

Upon receipt of the Final Investigative Report, the ED will meet with the appropriate administrative officials to discuss the report's findings so that either the disciplinary phase or the consequence management phase of the process can begin. If appropriate and/or required, the ED will communicate the committee's findings to any relevant external agencies.

II. Reporting to Federal Agencies

When federal funding is involved, the ED will inform the pertinent agency within 30 calendar days of the submission of the final Inquiry Report that an Investigation will be initiated. When required by federal agencies (e.g., NSF, ORI or HHS), any extension of the Investigation beyond 120 calendar days must be requested in writing from the relevant agency. The extension request must include an explanation for the delay, an interim report on progress to date, an outline of what remains to be done, and an estimated date of completion. If an Investigation is terminated before its completion, a report of the planned termination, including the reasons for such an action, must be made to those federal funding agencies that require it.

Notification to Federal Agency

The ED will notify relevant federal funding agencies if, during the course of an investigation, facts are disclosed that may affect current or potential federal funding for any individuals(s) under investigation or that the federal agency needs to know to ensure the appropriate use of funds and otherwise protect the public interest. The ED shall maintain, and provide to the agency upon request, all relevant research records and records of the research misconduct proceeding, including results of all interviews and the transcripts of the recordings.

In all cases, the University will follow the regulations or the relevant federal funding agency requirements in preparing its reports. The final report to the relevant agency must describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained, the findings, and the basis for the findings, as well as a description of any sanctions imposed by the University. Documentation to substantiate the Investigation's findings will also be made available. The University will cooperate with and assist the relevant agency as needed to carry out any administrative actions that may be imposed as a result of a final finding of research misconduct.

Protection of Public Health and Resources

At any time during a research misconduct proceeding, the University shall take appropriate interim action to protect public health, federal funds and equipment, and the integrity of the grant-supported 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 approval for actions relating to the research that did not previously require approval, auditing pertinent records, or taking steps to contact other institutions that might be affected by an allegation of research misconduct.

Notification to ORI

At any time during a research misconduct proceeding, the ED shall notify ORI immediately if the ED has reason to believe that any of the following conditions exist:

- The health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
- HHS resources or interests are threatened.
- Research activities should be suspended.
- There is a reasonable indication of violations of civil or criminal law.
- Federal action is required to protect the interest of those involved in the research misconduct proceeding.

III. Consequence Management

NJCU shall undertake all reasonable, practical and appropriate efforts to protect and restore the reputation of any Respondent(s) alleged but not proven to have engaged in research misconduct. Such efforts might include:

- Notifying individuals involved in or officially informed about the Investigation regarding the final outcome;
- Publicizing the final outcome in any forum in which the Investigation of research misconduct was previously announced;
- Expunging all reference to the allegation and Investigation from the personnel file of the Respondent(s).

The Respondent, his/her legal counsel, or another authorized representative must request the ED to initiate these efforts. NJCU shall also undertake all reasonable and practical efforts to protect the position and reputation of any Complainant, witness, or committee member and also to counter potential or actual retaliation actions against the Complainant(s), witnesses, and committee members.

IV. Disciplinary Procedures

When an allegation of research misconduct has been formally substantiated, NJCU shall take appropriate administrative actions against the individual(s). Possible sanctions and disciplinary actions include:

Research Sanctions - Research sanctions may include but are not limited to:

- Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found.
- Removal of the responsible person(s) from the particular project.
- Restricting or prohibiting future grant submissions and/or reviewing grant proposals for agencies.
- Special monitoring of future research publication.

Disciplinary Actions - Employee-related disciplinary actions may include:

- Discipline by documentation, including letters of reprimand
- Suspension
- Salary reduction
- Initiation of steps leading to possible rank reduction or termination of employment
- Restitution of funds as appropriate.

Other Disciplinary Procedures - Disciplinary sanctions against members of other bargaining units will proceed in accordance with the appropriate collective bargaining agreement. In the case of non-student, non-bargaining unit employees (staff), the researcher shall be notified in writing of the intent to initiate disciplinary action, and is invited to respond to the proposed discipline in a personal conference with the appropriate University official. The researcher and the appropriate University official shall each be entitled to bring a representative of their choice to such a conference. If the University official and the researcher arrive at a mutually agreeable settlement, the matter is disposed of in accordance therewith.

If discipline is to be imposed upon the researcher pursuant to the settlement, or if there is no settlement, but the researcher has informed the University official that he/she does not intend to contest the proposed discipline, the University may thereupon impose such discipline.

If discipline is imposed without the agreement of the researcher, the researcher may use any of the dispute resolution services described in the NJCU Human Resources Employee Handbook.

For students, the University also has a number of sanctions and disciplinary actions available. Actions for student researchers may include (individually or collectively):

- Loss of credit for research.
- Loss of assistantship.
- Suspension.
- Expulsion from the University.

If, in the case of a student, the Investigative Committee makes a finding of research misconduct, its report, the student's response, and the recommendation of the ED as to appropriate sanctions, if any, will be forwarded to the Office of Dean of Students, which will determine sanctions according to the NJCU Code of Student Conduct Handbook.

Definitions - The following definitions that apply to the Research Misconduct Policy are all taken from federal regulations - 42 CFR Part 93 Public Health Service Policies on Research Misconduct; Final Rule. In each instance, the appropriate regulation is noted.

Allegation - a disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement or other communication to an institutional or HHS official. (§ 93.201)

Complainant - a person who, in good faith, makes an allegation of research misconduct. (§ 93.203)

Confidentiality of Research Misconduct Proceedings Disclosure of the identity of respondents and complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective, and fair research misconduct proceeding, and as allowed by law. Provided, however, that:

The institution must disclose the identity of respondents and complainants to ORI pursuant to an ORI review of research misconduct proceedings under § 93.403. Under § 93.517(g), HHS administrative hearings must be open to the public. Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be identified. Disclosure is limited to those who have a need to know to carry out a research misconduct proceeding. (§. 93.108).

Evidence - any document, tangible item, or testimony offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact. (§ 93.208)

Fabrication - making up data or results, and recording or reporting them. (§. 93.103)

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. (§ 93.103)

Funding component - any organizational unit of the PHS authorized to award grants, contracts, or cooperative agreements for any activity that involves the conduct of biomedical or behavioral research, research training or activities related to that research or research training (e.g., agencies, bureaus, centers, institutes, divisions, or offices and other awarding units within the PHS). (§. 93.209)

Good faith: as applied to a complainant or witness - having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have, based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. (§. 93.210)

Good faith: as applied to a committee member - cooperating with the research misconduct proceeding by impartially carrying out the duties assigned for the purpose of helping an institution meet its responsibilities. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding. (§. 93.210)

Inquiry - preliminary information-gathering and preliminary fact-finding that meets the criteria and follows the procedures of § 93.307-93.309. (§ 93.212)

Investigation - the formal development of a factual record and the examination of that record. It should lead to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct, which may include a recommendation for other appropriate actions, including administrative actions. (§ 93.215)

Notice - a written communication served in person, sent by mail or its equivalent to the last known street address, facsimile number or e-mail address of the addressee. Several sections of Subpart E of this part have special notice requirements. (§ 93.216)

Office of Research Integrity (ORI) - the office to which the HHS Secretary has delegated responsibility for addressing research integrity and misconduct issues related to Public Health Service-supported activities. (§ 93.217)

Plagiarism - the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit. (§ 93.103)

Preponderance of the evidence - proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not. (§ 93.219)

Public Health Service (PHS) - the unit within the Department of Health and Human Services that includes the Office of Public Health and Science and the following operating divisions: Agency for Healthcare Research and Quality, Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, Food and Drug Administration, Health Resources and Services Administration, Indian Health Service, National Institutes of Health, and the Substance Abuse and Mental Health Services Administration, as well as the offices of the Regional Health Administrators. (§ 93.220)

PHS support - PHS funding, or applications or proposals therefor, for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or training, that may be provided through: Funding for PHS intramural research; PHS grants, cooperative agreements, or contracts or subgrants or subcontracts under those PHS funding instruments; or salary or other payments under PHS grants, cooperative agreements or contracts. (§ 93.221)

Research - a systematic experiment, study, evaluation, demonstration, or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) relating broadly to public health by establishing, discovering, developing, elucidating, or confirming information about, or the underlying mechanism relating to, biological causes, functions, or effects; diseases; treatments; or related matters to be studied. (§ 93.222)

Research Record - the record of data, facts, or results from scientific inquiry, including, but not limited to, research proposals; laboratory records, both physical and electronic; progress reports; abstracts; theses; oral presentations; internal reports; journal articles; and any documents and materials provided to HHS or an institutional official by a respondent in the course of the research misconduct proceeding. (§ 93.224)

Respondent - the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding. (§ 93.225) In some cases there may be multiple respondents.

Retaliation - an adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to either a good faith allegation of research misconduct or good faith cooperation with a research misconduct proceeding. (§ 93.226).

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