RESEARCH MISCONDUCT POLICY AND PROCEDURES

Ferris State University (FSU) is committed to ensuring the integrity of research. Misconduct in research damages the honor of the profession and undermines the credibility of scholars, irrespective of discipline. The University takes seriously all allegations of misconduct, and believes that the procedures for inquiry, investigation and adjudication of any misconduct should be clear for all involved parties, while maintaining protections for the complainant, the respondent and all witnesses involved.

This document defines the University's Research Misconduct Policy and specifies procedures and appropriate safeguards for handling investigations of misconduct. The procedures conform to the Public Health Service (PHS, Department of Health and Human Services) 42 CFR Parts 50 and 93 Public Health Service Policies on Research Misconduct; Final Rule.

POLICY

It is the policy of FSU that research misconduct as defined by this document is prohibited. The research misconduct policy applies to all persons affiliated with FSU including, but not limited to, faculty, staff, administrators, alumni, students, trainees, and all members of the research staff. Cases of research misconduct involving students are subject to the normal disciplinary rules governing students, but will be reviewed additionally under this policy as appropriate. The policy applies 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 results; (c) the process of applying for funds; (d) the expenditure of project funds; and (e) the fiscal reporting on the use of project funds.

Persons found to have committed research misconduct are subject to discipline. In addition, where appropriate, the findings will 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, procedures, and/or collective bargaining agreements.

Definition of Research Misconduct

Research misconduct is defined as fabrication, falsification, plagiarism, or other practices that seriously deviate from those commonly accepted within the academic community for proposing, performing, reviewing or in reporting research results.

Research misconduct is to be distinguished from honest error and differences of interpretation (§ 93.103, 42 CFR Part 93). A finding of research misconduct made under this part requires that:

a. There be a significant departure from accepted practices of the relevant research community;
b. The misconduct be committed intentionally, knowingly, or recklessly, and
c. The allegation be proven by a preponderance of the evidence.

Confidentiality

To the extent possible, the University shall maintain the identity of Respondents and Complainants securely and confidentially and shall not disclose any identifying information except to:

a. Those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding.
b. If appropriate, the Department of Health and Human Service's Office of Research Integrity (ORI) as it conducts its review of the research misconduct proceedings and any subsequent proceedings.

To the extent allowed by law, records or evidence 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 need to know in order to carry out the research misconduct proceeding or as required by law.

Key Definitions to Research Misconduct

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)

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 the research record. (§ 93.103)

Financial misconduct - The use of grant or research funds in a fashion not authorized by the grant and/or for a purpose not authorized by or in furtherance of the grant and/or research; the failure to properly manage the grant and/or research funds, including the failure to exercise proper oversight; and/or the failure to properly account for the expenditure of funds

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

Confidentiality - 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:

a. The institution must disclose the identity of respondents and complainants to ORI pursuant to an ORI review of research misconduct proceedings under § 93.403.
b. 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)

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, means 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. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping an institution meet its responsibilities under this part. 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 leading 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, 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 PHS 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 or 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, and the offices of the Regional Health Administrators. (§ 93.220)

PHS support - PHS funding, or applications or proposals therefore, 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 sub-grants 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 misconduct - Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. (§ 93.103)

Research record - The record of data or results that embody the facts resulting 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. While the policy refers to a single respondent, it is recognized that in some cases there may be multiple respondents. (§ 93.225)

Retaliation - An adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to:

a. A good faith allegation of research misconduct; or
b. Good faith cooperation with a research misconduct proceeding. . (§ 93.226)

PROCEDURE

Phases

Research Misconduct proceedings shall consist of the following phases:

a. **Preliminary Assessment of Allegations** – a review to determine whether the accusations constitute good faith allegations of research misconduct. See 93.200
b. **Inquiry** – an initial review of the evidence to determine if the criteria for conducting an investigation have been met. See 93.212.
c. **Investigation** – an Investigative Committee is 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.
d. **Reputation Restoration** – as needed
e. **Disciplinary Procedure** – as needed
f. **Reporting to Federal Agencies** – as needed

A. Preliminary Assessment

The Research Integrity and Compliance Officer (RICO) and the Provost and VP for Academic Affairs, herein referred to as the Provost, assesses the reported incident to determine if it constitutes a good faith allegation of research misconduct. After receiving an allegation, defined as a disclosure of possible research misconduct through any means of communication, the RICO and the Provost in consultation with the appropriate Dean and University official(s) shall assess the allegation to determine if it meets the definition of misconduct:

a. It involves Public Health Service (PHS) supported research or applications for PHS research support;
b. It involves research records specified in 42 CFR Section 93, 102(b); and,
c. The allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

If it is concluded that a good faith allegation of research misconduct has been made, the misconduct procedure enters its inquiry phase.

The Preliminary Assessment shall be completed by the Office of Research and Sponsored Programs (ORSP) within 30 business days of the receipt of the report or the event giving rise to the Preliminary Assessment, unless circumstances prevent completing the assessment within that time frame, in which event the ORSP shall document the reasons for delay and complete the assessment as soon as is practical.

If it is determined that an Inquiry is not warranted, the RICO shall inform the Complainant (when possible and not made anonymously) and the Respondent in writing. Employees who report in good faith documented, reliable information about unethical conduct are assured they may do so without fear of retaliation.

B. Inquiry

If determined that an inquiry is warranted, the RICO and the Provost initiates the inquiry process which must be completed within 60 calendar days of the inquiry's initiation. The purpose of an 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 for the inquiry and subsequent investigations.

a. **Notification of Respondent, and Maintenance and Custody of Research Records and Evidence.**

   The RICO will notify the Provost and the Respondent in writing that an inquiry has been initiated. The RICO shall take the following specific steps to obtain, secure and maintain the research records and evidence pertinent to the research misconduct proceeding:

   i. Either before or when the RICO notifies the respondent of the allegation, inquiry, or investigation, the RICO shall promptly take all reasonable and practical steps to obtain copies of all research records and any additional evidence needed to conduct the research misconduct proceeding, inventory those materials, and sequester them in a secure manner. In cases where the research records or evidence encompass scientific instruments shared by a number of users, copies of the data or evidence on such instruments may be obtained.
   ii. Confidentiality of the research records will be maintained as described in the Confidentiality section.
   iii. The RICO shall undertake every reasonable and practical effort to retain copies of any additional research records and evidence that are discovered during the course

of the research misconduct proceeding including new allegations as these arise, from the initial stages of inquiry and throughout the investigation, subject to the exception for scientific instruments in (1) above.

ORSP shall maintain all records of the research misconduct proceeding, as defined in 42 CFR Section §93.317(a), for seven years after completion of the proceeding, or any ORI or HHS proceeding under Subparts D and E of 42 CFR Part 93, whichever is later, unless ORSP has transferred custody of the records and evidence to HHS, or the Office of Research Integrity (ORI) has advised the University that the records no longer need to be retained.

b. **Appointment of the Inquiry Committee**
The RICO and the Provost will appoint an Inquiry Committee and designate the chair within 10 business days of the initiation 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 to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. These individuals may be subject matter experts, administrators, lawyers, or other qualified persons.

c. **Notification to Respondent of Committee Members**
The RICO and the Provost will notify the Respondent of the proposed committee membership. The Respondent has seven business days to challenge, in writing, the committee's membership based on bias or conflict of interest. The RICO and the Provost will determine whether the evidence of perceived bias or conflict warrants replacement of the challenged member.

d. **Inquiry Report**
The inquiry report shall contain the following information
   i. The name and position of the Respondent;
   ii. A description of the allegations of research misconduct;
   iii. If appropriate, the grant support involved, including, grant numbers, grant applications, contracts, and publications listing grant support;
   iv. Description of data reviewed and interviews;
   v. If applicable, the basis for recommending that the alleged actions warrant an investigation;
   vi. The Inquiry Committee will provide the Respondent(s) seven business days to comment on the draft Inquiry Report. The Inquiry Committee may either attach the comments to the report and/or make the corrections in the report as necessary. The RICO and the Provost may grant additional time to respond if circumstances warrant.
   vii. The Inquiry Committee will make a written determination of whether an investigation is warranted based on the Inquiry Report and the Federal guidelines Sec. 93.307. The RICO and the Provost shall notify the Respondent of the result of the inquiry and attach to the notification copies of the Inquiry Report and FSU institutional policies and procedures for the handling of research misconduct allegations.
   viii. If the Committee determines that an investigation is warranted, the investigation shall begin within 30 calendar days of that determination.

C. Investigation

Within a reasonable time after determination that an investigation is warranted, but not later than 30 calendar days after that determination, the RICO and the Provost shall appoint an Investigative

Committee. The RICO and the Provost shall select those conducting the investigation on the basis of research expertise that is pertinent to the matter and who do not have personal, professional, or financial conflicts of interest with the Respondent, Complainant or others involved in the matter. Any such conflict that would demonstrate potential bias shall disqualify the individual from selection. The Investigative Committee differs depending upon the Respondent. The committee shall select the chair of the committee. It is the responsibility of the chair to issue all required communications and to schedule all necessary meetings, interviews, and other events.

a. In the case of a bargaining unit faculty member, the Investigative Committee is appointed by the Provost. It will be constituted from one or two tenured FSU faculty and will include a member of the researcher's relevant peer group and a bargaining unit representative, if requested.
b. In the case of a student, the Provost appoints an Investigative Committee from one to three tenured faculty and a designee from the Dean of Student Life Office
    i. In all cases, the RICO and the Provost will notify the Respondent in writing that an investigation is being undertaken, will inform him/her of the allegations that are under investigation, as well as of the composition of the Investigative Committee, and the procedures that will be followed by in the course of the investigation.
    ii. The Respondent has seven business days to challenge, in writing, the committee's membership based on bias or conflict of interest. The RICO and Provost will determine whether the evidence of bias or conflict warrants replacement of the challenged member(s).
    iii. The investigation phase must be completed within 120 calendar days from the appointment of the Investigative Committee, unless circumstances warrant a longer period. This time frame includes conducting the investigation, preparing the report of findings, providing the draft report for comment, the appeal process, and sending the final report to Office of Research & Sponsored Programs (ORSP) and the Provost, if appropriate. This time period does not apply to the disciplinary phase hearings. If the investigation stage is extended beyond 120 calendar days, the reasons for doing so must be documented by the Investigative Committee.
    iv. The RICO and the Provost shall instruct the Investigative Committee to:
        a. 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.
        b. Pursue diligently all significant issues are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct and continue the investigation to completion.
        c. Use all reasonable steps to ensure an impartial and unbiased research misconduct proceeding to the maximum extent practicable.
        d. Interview each Respondent, Complainant, and any other available person who has been reasonably identified as having information regarding relevant aspects of the investigation, including witnesses identified by the Respondent. When interviewing, the committee should record or transcribe, provide the recording or transcript to the interviewee for correction of transcription errors, and include the recording or transcript in the record of investigation.
        e. The Respondent shall be notified in writing no less than five business days in advance of the scheduling of his/her interview in the investigation and may arrange

for the attendance of legal counsel, if the Respondent wishes. In the event the Respondent intends to have legal counsel present at the interview, Respondent shall inform the RICO and the Provost of her/his intent no later than two business days before the interview.

v. When the investigation is completed, the Chair of the Investigative Committee shall prepare and submit a written report of the results, reviewing the facts, and stating the committee's findings to the RICO and the Provost. The RICO and the Provost shall make the report available to the Respondent for comment. In a separate communication to the RICO and the Provost, the Investigative Committee shall offer its recommendations with respect to disciplinary sanctions, if any.

   The final investigation report shall:

   a. Describe the nature of the allegations of research misconduct.
   b. Describe and document the grant support including, any grant numbers, grant applications, contracts and publications listing grant support, if appropriate.
   c. Describe the specific allegations of research misconduct considered in the investigation.
   d. Include the institutional policies and procedures under which the investigation was conducted, if not already provided.
   e. Identify and summarize the research records and evidence.
   f. Identify any evidence taken into custody, but not reviewed. The report should also describe any relevant records and evidence not taken into custody and explain why.
   g. 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.
   i. 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 explanation.
   ii. Identify any publications that need correction or retraction; identify the person(s) responsible for the misconduct and list any current support or known applications or proposals for support that the Respondent has pending.
   h. The subject(s) shall have 21 calendar days to submit comments on the investigative report. The committee shall include and consider any comments made by the Respondent and Complainant on the draft investigation report.
   i. When the Investigative Committee report and the Respondent's response have been received, the RICO and the Provost will meet with the appropriate administrative officials to discuss the report's findings so that either the disciplinary phase of the process or the restoration of reputation aspect of the process can begin.
   j. If appropriate and/or required, the RICO and the Provost shall communicate the committee's findings to relevant agencies external to the university (see section on Reporting to Federal Agencies).

D. Reputation Restoration

FSU shall undertake all 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 his/her legal counsel or other authorized representative requests so. FSU shall undertake all reasonable and practical efforts to protect 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.

E. Disciplinary Procedure

The Provost shall take appropriate administrative actions against individuals only when an allegation of misconduct has been formally substantiated. The University has a number of sanctions and disciplinary actions available.

a. **Research Sanctions may include but are not limited to:**
    1. Withdrawal or correction of all pending or published abstracts and papers stemming from the research misconduct was found.
    2. Removal of the responsible person from the particular project
    3. Restricting or prohibiting future grant submissions and/or reviewing grant proposals for agencies
    4. Special monitoring of future research publication

b. **Disciplinary Actions**
    1. Employee related disciplinary actions may include:
        a. Discipline by documentation, including letters of reprimand
        b. Suspension
        c. Salary reduction
        d. Initiation of steps leading to possible rank reduction or termination of employment or
        e. Restitution of funds as appropriate.
    2. Student related disciplinary complaints may be referred to the Office of Student Conduct for appropriate adjudication.

c. **Disciplinary Procedures**
    1. Bargaining unit employees:
       In the case of a bargaining unit faculty member, the processing of charges will proceed in accordance with the provisions of the Agreement between FSU and the FSU Faculty Association (FFA). Disciplinary sanctions against members of other bargaining units will proceed in accordance with the appropriate collective bargaining agreement.
    2. Students:
       In the case of a student, if the Investigative Committee makes a finding of research misconduct, its report, the student's response, and the recommendation of appropriate conduct sanctions, if any, may be forwarded to the Office of Student Conduct, which will determine sanctions based on the Code of Student Community Standards.

F. Reporting to Federal Agencies

When federal funding is involved, the pertinent agency will be informed by the ORSP that an investigation will be initiated within 30 calendar days of the submission of the inquiry report. When it is required by federal agencies, such as ORI or DHHS, an 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 the 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 (the Office of Research Integrity of DHHS, for example).

a. The ORSP will notify relevant federal funding agencies if, during the course of the investigation, facts are disclosed that may affect current or potential federal funding for individuals(s) under investigation or that the federal agency needs to know to ensure appropriate use of funds and otherwise protect the public interest. The ORSP shall maintain and provide to ORI upon request all relevant research records and records of the research misconduct proceeding, including results of all interview and the transcripts or recordings. The University will follow the regulations of the relevant federal funding agency requirements in preparing its report. The final report to ORI 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 taken by the University. Documentation to substantiate an investigation's findings will also be made available to the Director of ORI. The University will cooperate with and assist ORI and HHS, as needed to carry out any administrative actions HHS may impose as a result of a final finding of research misconduct by HHS.
b. 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.
c. At any time during a research misconduct proceeding, ORSP shall notify the Provost and other appropriate University officials and ORI immediately there is reason to believe that any of the following conditions exist:
    1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
    2. HHS resources or interest are threatened.
    3. Research activities should be suspended.
    4. There is a reasonable indication of violations of civil or criminal law.
    5. Federal action is required to protect the interest of those involved in the research misconduct proceeding.

Adapted from Western Michigan University Research Misconduct Policy, 2006