

**STATE UNIVERSITY OF NEW YORK AT NEW PALTZ
POLICIES AND PROCEDURES FOR RESEARCH MISCONDUCT**

I. INTRODUCTION

An underlying principle of all research is the quest for truth. The credibility of such research must be above reproach if the public trust is to be maintained. Any compromise of the ethical standards required for conducting academic research cannot be condoned. While breaches in such standards are rare, these must be dealt with promptly and fairly by all parties in order to preserve the integrity of the research community. The faculty, staff and students of SUNY New Paltz are committed to preserving and encouraging an environment of creativity commensurate with the highest ethical standards of academic research.

II. POLICY STATEMENT

- A. New Paltz will maintain high ethical standards in science and other scholarly work and prevent misconduct where possible.
- B. All members of the SUNY New Paltz community have the responsibility of reporting misconduct in scientific and scholarly work. However, frivolous, mischievous or malicious misrepresentation in alleging misconduct may result in action against the perpetrator.
- C. The institution will promptly, objectively, fairly and thoroughly evaluate and resolve instances of alleged or apparent misconduct through inquiries and investigations except in circumstances where deferral to a Federal agency or other outside source is deemed appropriate.
- D. Precautions against real or apparent institutional or personal conflicts of interest or bias will be taken in inquiry and investigation procedures including precautions to ensure that individuals responsible for carrying out any part of the research misconduct proceedings do not have unresolved personal, professional or financial conflicts of interest with the complainant, respondent or witnesses.
- E. Disclosure of the identity of individuals reporting the alleged misconduct (complainants) and affected individuals including the respondents, interviewees and witnesses 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.
- F. Except as may otherwise be prescribed by applicable law, confidentiality will 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.
- G. All reasonable and practical efforts will be made to protect the privacy, position and reputation of any good faith complainant, witness, or committee member and to counter potential or actual retaliation against these complainants, witnesses, and committee members.
- H. All reasonable and practical efforts will be made, if requested and as appropriate, to protect or restore the reputation of persons alleged to have engaged in research misconduct but against whom no finding of research misconduct is made.

- I. After consultation with counsel to SUNY and the Research Foundation of SUNY, and as required by applicable regulations, SUNY New Paltz will report allegations and findings and proceedings of inquiries and investigations to sponsoring agencies.
- J. Appropriate disciplinary action against any individual found guilty of misconduct will be taken by SUNY New Paltz through the processes defined by the University's agreement with the United University Professions. This may include disclosure to funding agencies, collaborating scientists and institutions, the SUNY New Paltz community, the editors of all journals or books in which results of scholarly work related to the affected project have been published or are under consideration for publication, professional associations, licensing boards, and potential employers who request oral or written references, as well as other appropriate sanctions.
- K. The institution will 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.
- L. SUNY New Paltz will annually report as required by funding and sponsoring agencies.
- M. Compliance will be required of all individuals who work on funded projects even though they do not receive compensation from Federal funds.
- N. SUNY New Paltz will inform its research members of the research misconduct policies.
- O. SUNY New Paltz will take action necessary to ensure the integrity of research, the rights and interests of research subjects and the public, the protection of Federal funds and equipment, and the observance of legal requirements or responsibilities.
- P. The involvement of faculty and staff in inquiries or investigations pursuant to these Policies and Procedures for Research Misconduct is considered part of their employment duties and responsibilities within the meaning of Section 17 of the Public Officers Law.
- Q. An individual who is the subject of an inquiry or investigation has the right to consultation with legal counsel and the right to representation by counsel in accordance with the Agreement between the State of New York and the United University Professions.
- R. The Provost is the institutional official responsible for implementation of inquiries and investigations, reporting, maintenance of records and implementation of appropriate sanctions.

III. APPLICABILITY

These policies are applicable to all SUNY New Paltz full-time, part-time, and visiting faculty, staff, and students engaged in scholarly activities, funded or unfunded, using campus facilities, the facilities of another institution or any other off-campus site. All users of SUNY New Paltz campus or off-campus facilities are covered under this policy. The policy does not apply to academic misconduct by students as part of their normal course work.

IV. DEFINITIONS

A. Adjudication

Adjudication means the phase of the process during which recommendations are reviewed and appropriate corrective actions determined.

B. Allegation

Allegation means 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 official or to an official of a sponsoring agency.

C. Complainant

Complainant means a person who in good faith makes an allegation of research misconduct.

D. Inquiry

Inquiry means preliminary information gathering and preliminary fact-finding to determine whether an allegation or apparent instance of research misconduct has substance and if an investigation is warranted.

E. Investigation

Investigation means the formal development, examination and evaluation of a factual record to determine whether research misconduct has taken place, to assess its extent and consequences, and to evaluate appropriate action. An investigation must be undertaken if the inquiry determines that the allegation falls within the definition of research misconduct and has substance.

F. Preponderance of the Evidence

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

G. Research Misconduct

Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. ***Fabrication*** means making up data or results and recording or reporting them. ***Falsification*** means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record. ***Plagiarism*** means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit. Research misconduct does not include honest error or differences of opinion.

H. Research Misconduct Proceeding

Research misconduct proceeding means any actions taken related to alleged research misconduct,

including but not limited to, allegation assessments, inquiries, investigations, Federal agency oversight reviews, hearings, and administrative appeals.

I. Research Record

Research record means 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 a Federal sponsor or an institutional official by a respondent in the course of the research misconduct proceeding.

J. Respondent

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

K. Retaliation

Retaliation means 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.

V. FINDINGS

A finding of research misconduct requires that:

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

VI. PROCEDURES

A. Initiation of an Allegation

1. The initial allegation(s) pertaining to research misconduct may be directed to the appropriate Chairperson, to the Dean of the appropriate college or school, to the Provost, or to an official of the appropriate funding agency, if any.
2. As indicated in the definition above, allegations may be disclosed through any means of communication.
3. A Chairperson or Dean receiving allegations pertaining to research misconduct must file a written notification with the Provost of such allegations within 10 days of their receipt.

B. Inquiry

1. The Provost will be responsible for prompt implementation of an inquiry upon receipt of notification of suspected or alleged research misconduct.
2. The authority to conduct an inquiry may be delegated by the Provost to impartial administrators.
3. In the conduct of the inquiry, faculty members may be consulted on an ad hoc basis.
4. An inquiry will be completed and a determination made whether an investigation is warranted within 90 calendar days of initiation of the inquiry (within 60 calendar days of initiation of the inquiry for Public Health Service sponsored activity unless circumstances clearly warrant a longer period.)
5. If the institution plans to terminate the inquiry for any reason without completing all relevant requirements, a report of such planned termination, including a description of the reasons for such termination will be submitted to the sponsoring agency.

C. Notice of the Results of the Inquiry

1. *Notice to respondent.* SUNY New Paltz will notify the respondent whether the inquiry found that an investigation is warranted. The notice will include a copy of the inquiry report and will include a copy of or will refer to any applicable sponsoring agency's policy and the institution's policies and procedures. Instructions will be provided regarding opportunity for the respondent to provide written comments on the institution's inquiry report.
2. *Notice to complainants.* The institution may notify the complainant who made the allegation whether the inquiry found that an investigation is warranted. The institution may provide relevant portions of the report to the complainant for comment.
3. *Notice to SUNY, Research Foundation and Federal Sponsors.* Prior to the initiation of an investigation, information regarding the decision to investigate will be reported to SUNY and Research Foundation legal counsel and to sponsoring agencies as required. (For DHHS refer to 42CFR93, 93.309b.)

D. Investigation

1. The institution will promptly begin an investigation when an inquiry results in a determination that one is warranted.
2. The Provost will appoint a Misconduct Investigation Panel comprised of impartial administrators. The Provost will serve as chair or will appoint a chair.
3. The Panel may consult on an ad hoc basis with faculty or others from outside the institution as needed.
4. The investigation normally will include:
 - a. Examination of all documentation, including but not necessarily limited to relevant research

- data, proposals, publications, reports, correspondence and memoranda of telephone calls.
- b. Review of procedures or methods and inspection of laboratories, laboratory materials, specimens and records.
 - c. Interviews with all individuals involved in making the allegation and other parties or witnesses.
 - d. Review of any documents or other evidence provided by or properly obtainable from parties, witnesses or other sources.
 - e. Interviews with all individuals against whom allegations have been made.
5. Complete summaries of all interviews will be prepared, provided to the interviewed party for comment or revision and included as part of the investigatory file.
 6. The sponsoring agency, if any, will be promptly advised of any developments during the course of the investigation which disclose facts that may affect current or potential agency funding for the individual(s) under investigation or that the agency needs to know to ensure appropriate use of Federal funds and to otherwise protect public interest. Responsibility for this action will rest with the Provost.
 7. The institution will complete the investigation and reach a disposition within 180 calendar days (120 days for PHS) of its initiation. This includes conducting the investigation, preparing the report of findings, making the draft report available for written comment by the subjects of the investigation and submitting the final report to the sponsoring agency, if any. The institutional investigation committee will be provided the opportunity to consider and address the respondent's comments prior to issuing the final report. The person(s) who raised the allegation will be provided with those portions of the report that address their role and opinions in the investigation.
 8. If the institution plans to terminate the investigation for any reason without completing all relevant requirements, a report of such planned termination, including a description of the reasons for such termination will be submitted to any appropriate sponsoring agency.
 9. The final report of the completed investigation will describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings, and will include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions taken by the institution.

VII. INSTITUTIONAL NOTIFICATION OF FUNDING AGENCIES

The institution, through the Provost, will notify the funding agencies, if any, of an allegation of research misconduct if (1) the allegation involves Federally funded research (or an application for Federal funding) and meets the Federal definition of research misconduct given above, and (2) if the institution's inquiry into the allegation determines there is sufficient evidence to proceed to an investigation. When an investigation is complete, the institution will forward to the agency a copy of the evidentiary record, the investigative report, recommendations made to the institution's adjudicating official, and the subject's written response to the

recommendations, if any. When the institution completes the adjudication phase, it will forward the adjudicating official's decision and notify the sponsor, if any, of corrective actions taken or planned.

VIII. URGENT NOTIFICATION

The institution, through the Provost, shall immediately notify any appropriate Federal agency if at any time during an inquiry or investigation it is ascertained that any of the following conditions exist:

- A. public health or safety is at risk, including an immediate need to protect human or animal subjects;
- B. agency resources, reputation or other interests are threatened and need protecting;
- C. research activities should be suspended;
- D. there is reasonable indication of possible violations of civil or criminal law;
- E. Federal action is required to protect interests of a subject of investigation or others potentially affected;
- F. the institution believes the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved;
- G. the research community or public should be informed.

IX. NSF - ADDITIONAL REQUIREMENT DETAIL

- A. If completion of an inquiry or investigation is delayed, but the institution wishes NSF deferral of independent inquiry or investigation to continue, NSF may require submission of periodic reports.
- B. The Office of Inspector General (OIG) will be informed immediately by SUNY New Paltz if inquiry supports formal investigation.
- C. The institution will keep OIG informed during such an investigation.
- D. The institution will provide OIG with the final report from any investigation.

X. PHS/DHHS/NIH – ADDITIONAL REQUIREMENT DETAIL

- A. At the time of or before beginning an inquiry, a good faith effort will be made to notify in writing the respondent. If the inquiry subsequently identifies additional respondents, they, too, will be notified.
- B. The inquiry will be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. If the inquiry takes longer than 60 calendar days to complete, the inquiry record will include documentation of the reasons for exceeding this period of time.
- C. The respondent will be notified in writing of allegations within a reasonable amount of time after determining that investigation is warranted, but before it begins. Written notice of new allegations of

research misconduct will be given to the respondent within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of investigation.

- D. Within 30 calendar days of finding that an investigation is warranted, and on or before the date on which the investigation begins, the institution will provide the Office of Research Integrity (ORI) with the written finding by the Provost and a copy of the inquiry report which includes the following information: 1) the name and position of the person who is the subject of the misconduct proceeding; 2) a description of the allegation(s) of research misconduct; 3) the PHS support, including, for example, grant numbers, grant applications, contracts, and publications listing PHS support; 4) the basis for recommending that the alleged actions warrant an investigation; and 5) any comments on the report by the respondent or the complainant (the respondent must be provided an opportunity to review and comment on the inquiry report and any comments received from the respondent must be attached to the report.)
- E. An investigation will be initiated within 30 calendar days after determining that it is warranted.
- F. The institution will interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and will 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 the investigation.
- G. All significant issues and leads discovered that are determined relevant to the investigation will be pursued diligently including any evidence of additional instances of possible research misconduct. The investigation will be continued to completion.
- H. Sufficiently detailed documentation of inquiries to permit a later assessment by ORI of the reasons why the institution decided not to conduct an investigation will be kept.
- I. In accordance with 42 CFR 93 (93.318), ORI and other PHS agencies, as relevant, will be notified of any special circumstances that may exist.
- J. If unable to complete the investigation in 120 days, the institution will ask ORI for an extension in writing. If ORI grants an extension, the institution will file periodic progress reports if so directed.
- K. SUNY New Paltz will ensure full and continuing cooperation with ORI during its review or any subsequent administrative hearings or appeals. This includes providing all research records and evidence under the institution's control, custody, or possession and access to all persons within its authority necessary to develop a complete record of relevant evidence.
- L. SUNY New Paltz ensures maintenance of adequate records for research misconduct proceedings.
- M. Whenever possible, the institution will take custody of the records on or before the date on which the respondent is notified or the inquiry begins, whichever is earlier.
- N. To the extent it has not done so at allegation or inquiry stages, SUNY New Paltz will, at the investigation stage, take all reasonable and practical steps to obtain custody of all research records

and evidence needed to conduct the misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by users, custody may be limited to copies of the data or evidence on the instruments, so long as the copies are substantially equivalent to the evidentiary value of the instruments. Where appropriate, the respondent will be given copies of, or reasonable, supervised access to the research records. The institution will make all reasonable and practical efforts to take custody of additional records or evidence discovered during the course of a misconduct proceeding, except that where the records or evidence encompass scientific instruments shared by 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.

- O. Research records and evidence will be maintained as required by 42 CFR 93, section 93.317.
- P. The institution will give the respondent a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based. The comments of the respondent on the draft report, if any, must be submitted within 30 days of the date on which the respondent received the draft investigation report.
- Q. The institution may provide the complainant a copy of the draft investigation report or relevant portions of that report. The comments of the complainant, if any, must be submitted within 30 days of the date on which the complainant received the draft investigation report or relevant portions.
- R. The final institutional investigation report will be in writing and will include all elements as indicated in 42 CFR 93, section 93.313 and 93.315.
- S. SUNY New Paltz will notify ORI in advance if the institution plans to close a case at any stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except the closing of a case at the inquiry stage on the basis that an investigation is not warranted or a finding of no misconduct at the investigation stage, which must be reported to ORI under § 93.315.
- T. Consistent with PHS policy section 93.317, records of research misconduct proceedings will be kept in a secure manner for at least 7 years after the completion of the proceeding or the completion of any PHS proceeding involving the research misconduct allegation.
- U. Upon request, the institution will transfer custody of or provide copies to DHHS of any institutional record relevant to a research misconduct allegation covered by the regulations.

XI. DEPARTMENT OF TRANSPORTATION – ADDITIONAL REQUIREMENT DETAIL

- A. An inquiry will be completed within 60 calendar days after receipt of the allegation.
- B. The institution will complete the investigation within 120 calendar days of completing the initial inquiry.
- C. The institution's documentation of the investigation will include information that: (1) describes the allegation(s); (2) lists the investigators; (3) describes the methods and procedures used to gather

information and evaluate allegation(s); (4) summarizes records and data compiled, states the findings, and explains the supporting reasons and evidence; (5) states the potential impact of any research misconduct; (6) describes and explains any institutional sanctions or corrective actions recommended, or imposed as appropriate within its jurisdiction and as consistent with other relevant laws.

- D. The institution will provide the respondent with a reasonable opportunity (e.g., 15 calendar days) to review and respond to the investigation report and will make the respondent's written comments or rebuttal part of the investigative record.
- E. The institution will forward investigative reports, documentation, and respondent's response to the DOT oversight organization within 30 calendar days after completion of an investigation.

XII. OTHER FEDERAL AGENCIES AND ENTITIES

SUNY New Paltz will adhere to any additional requirements in the research misconduct policies of all Federal sponsors of research and scholarly activities.

Notes:

1. This policy borrows from the SUNY Stony Brook Scholarly Misconduct Policy regarding the applicability statement.
2. This document incorporates the requirements of the following regulations: *Federal Policy on Research Misconduct*; Department of Health and Human Services 42 CFR Parts 50 and 93, *Public Health Service Policies on Research Misconduct, Final Rule*; National Science Foundation *Research Misconduct Final Rule*; Department of Education *Research Misconduct*; and Department of Transportation *Implementation Guidance for Executive Office of the President, Office of Science and Technology Policy, Federal Policy on Research Misconduct*. The policies of the other eleven agencies/entities, that have developed or are in the process of developing implementing documents, will be followed should a misconduct incident arise on a project funded by one of those agencies/entities.