

SUNY BROCKPORT

College Senate
State University of New York
College at Brockport
350 New Campus Drive
Brockport, NY 14420-2925
(585) 395-2586 (Fax) 395-2246

Resolution # 12 2005-2006 COLLEGE SENATE

TO: Dr. John R. Halstead, College President

FROM: The College Senate Meeting on: *February 27, 2006*

RE: I. Formal Resolution (*Act of Determination*)
II. Recommendation (*Urging the Fitness of*)
⇒ III. Other, For Your Information (*Notice, Request, Report, etc.*)

COLLEGE SENATE
SUNY College at Brockport
APR 20 2006
350 New Campus Drive
Brockport, NY 14420-2925

SUBJ: **Update on Research Misconduct Policy for Faculty/Staff #14 - 05-06 FP**

Signed: *[Signature]* Date: 3 / 9 / 06
(*Dr. Mark Noll, 2005-2006 College Senate President*)

Please fill out the bottom portion and return document to the College Senate Office.

TO: The College Senate

M: College President

RE: I. Decision and Action Taken on Formal Resolution (circle)
a. Accepted. Resolution Effective Date: ___/___/___
b. Deferred for discussion with the Faculty Senate on ___/___/___
c. Unacceptable for the reasons contained in the attached explanation

⇒ II, III. Response to Recommendation or Other/FYI
a. Received and acknowledged 4 / 17 / 06
b. Comment: _____

DISTRIBUTED BY PRESIDENT'S OFFICE TO: President's Cabinet

DISTRIBUTE ALSO TO: Originator, Academic Advisement, Registrar (as appropriate)

Signed: *[Signature]* Date: 4/17/06
(*Dr. John R. Halstead, College President, SUNY College at Brockport*)

**COLLEGE SENATE OFFICE
RESOLUTION PROPOSAL COVER PAGE**

Routing Number	#14- 05-06FP
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ROUTING NUMBER TO BE ASSIGNED BY SENATE OFFICE

DEADLINE FOR SUBMISSIONS: FEBRUARY 23

Proposals received after the deadline may not be reviewed until next semester.

INSTRUCTIONS:

- Submit proposals individually rather than packets with multiple documents.
- Complete this cover page for each proposal (available online at www.brockport.edu/collegesenate)
- Prepare proposal in Word format using committee guidelines (available online)
- Submit proposal electronically with this cover page to senate@brockport.edu, facprez@brockport.edu
- All updates must be resubmitted to the Senate office with an updated cover page, use routing number
- Questions? Call the Senate office at 395-2586 or the appropriate committee chairperson.

1. PROPOSAL TITLE:

Please be somewhat descriptive, for example, *Graduate Probation/Dismissal Proposal* rather than *Graduate Proposal*.

Update of College's Research Misconduct Policy for Faculty/Staff

2. BRIEF DESCRIPTION OF PROPOSAL:

The College has had to update our Research Misconduct Policy for Faculty/Staff to comply with changes in federal regulations. Our previous policy has not been updated since the early 1990's.

3. SUBMISSION & REVISION DATES: PLEASE DATE ALL UPDATED DOCUMENTS

First Submission	Updated on	Updated on	Updated on
11/11/05	2/17/06		

4. SUBMITTED BY: (contact person)

Name	Department	Phone	Email
Ralph Trecartin and Colleen Donaldson	Grants Development Office	X5118 or x2523	rtrecart@brockport.edu or cdonalds@brockport.edu

5. COMMITTEES TO COPY: (Senate office use only)

Standing Committee	Forwarded To	Date
<input type="checkbox"/> Enrollment Planning & Policies	Committee Chair	11/15/05
<input checked="" type="checkbox"/> Faculty & Professional Staff Policies	Executive Committee	1/23/06, 2/20/06
<input type="checkbox"/> General Education & Curriculum Policies	Senate Floor	2/27/06 - announcement
<input type="checkbox"/> Graduate Curriculum & Policies		

__ Student Policies	College President	
__ Undergraduate Curriculum & Policies	Other	

*(ROUTING NUMBER WILL BE A CHRONOLOGICAL NUMBER SEQUENCE FOLLOWED BY COMMITTEE INITIALS)

Comparison Document

Additions to the old policy are in italics. These additions were adapted from a recommended sample policy provided by the Office of Research Integrity.

SUNY College at Brockport

Policies and Procedures on Research Misconduct

Draft 9/28/05

I. INTRODUCTION

A. Preamble

A crucial element of any policy on *research* misconduct that is to be fair and effective is a process that will distinguish instances of genuine and serious misconduct from insignificant deviations from acceptable practices, technical violations of rules, simple carelessness, and other such minor infractions. The policy proposed in this document will allow such distinctions to be made in a manner that minimizes disruptiveness and protects the conscientious, honest scientist from false or mistaken accusations.

SUNY College at Brockport shall maintain high ethical standards in science and other scholarly work, prevent misconduct where possible, and promptly and fairly evaluate and resolve instances of alleged or apparent misconduct.

Policy Statement

It is the purpose of these policies to instill and promote the principles of professional integrity, to prevent *research* misconduct, and to discover and censure instances of misconduct when they occur. *These provisions meet the minimum requirements in 42 Code of Federal Regulations (CFR) section 93. Public Health Service Policies on Research Misconduct. SUNY College at Brockport will implement these policies in a uniform manner whether the alleged misconduct occurs in funded or non-funded research activities.*

Confidentiality

Every member of the College community has the responsibility of reporting misconduct in scientific work. No person raising serious allegations of misconduct will suffer any penalty; however, frivolous, mischievous or malicious misrepresentation in alleging misconduct will not be tolerated and may result in action against the perpetrator.

To the extent allowed by law, we shall maintain the identity of respondents and complainants securely and confidentially and shall not disclose any identifying information, except to: (1) those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) the Office of Research Integrity (ORI) (or other federal funding agency) as it conducts its review of the research misconduct proceeding and any subsequent proceedings.

To the extent allowed by law, any information obtained during the research misconduct proceeding that might identify the subjects of research shall be maintained securely and confidentially and shall not be disclosed, except to those who need to know in order to carry out the research misconduct proceeding.

General Statement on Disciplinary Action

SUNY College at Brockport shall take appropriate disciplinary action against any individual found guilty of misconduct. This will include disclosure to funding agencies, collaborating scientists and institutions, journal editors, professional associations, licensing boards, and potential employers who request oral or written references.

Student Class Requirements Not Covered

These policies apply to scientific research and related scholarly writing conducted by any member of the University faculty or staff. They are not intended to address issues, such as the conduct of students in fulfilling course requirements, which are covered by other policies.

Stages of Misconduct Review

These procedures for the institutional handling of allegations of *research* misconduct normally have four stages: an inquiry to determine whether the allegation or related issues warrant further investigation; when warranted, an investigation to collect and thoroughly examine evidence; a formal finding, and appropriate disposition of the matter.

Usual Timeline

As a general rule, the College will take no more than 60 days to conduct its inquiry and determine whether an investigation is warranted. If an investigation is to be undertaken, it will begin within 30 days of the conclusion of the inquiry, and the institution shall generally take no more than 120 days to complete the investigation, prepare the report of findings, obtain the comments of the subject(s) of the investigation, and make a decision on the disposition of the case. *See detailed procedures outlined in section II below.*

Reporting

The College will annually report to all funding and sponsoring agencies as follows:

- a. Assurance that the institution has established and administrative process for reviewing, investigating, and reporting allegations of research misconduct in connection with sponsored research.
- b. Provision of such aggregate information on allegations, inquiries, and investigations as funding and sponsoring agencies may prescribe.

Definitions:

Research Misconduct:

Research misconduct means fabrication, falsification, or plagiarism, in proposing, performing, or reviewing research, or in reporting research results.

(a) *Fabrication is making up data or results and recording or reporting them.*

(b) *Falsification is 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.*

(c) *Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.*

(d) *Research misconduct does not include honest error or differences of opinion.*

Source: 42 CFR Section 93.103

Inquiry:

An Inquiry is an information-gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

Investigation:

An Investigation is a formal examination and evaluation of all relevant facts to determine if an instance of misconduct has taken place. If misconduct is confirmed, the investigation should determine the seriousness of the offense and the extent of any adverse effects resulting from the misconduct.

Personnel

The Vice President for Academic Affairs, after consultation with the President and others as necessary, will appoint an administrator to serve as the Misconduct Policy Officer.

Responsibilities of the Misconduct Policy Officer:

- To work confidentially with a complainant in the development of a specific, formal written complaint.
- To maintain records of all complaints and institutional responses.
- To conduct inquiries and submit recommendations concerning investigations to the Vice President for Academic Affairs.
- To assist the Vice President for Academic Affairs in the conduct of formal investigations into allegations of misconduct.
- To inform sponsoring and funding agencies as appropriate.

Liability Coverage

The involvement of faculty and staff in inquiries or investigations pursuant to these Guidelines is considered part of their employment duties and responsibilities within the meaning of Section 17 of the Public Officers Law.

II. RESEARCH MISCONDUCT PROCEEDINGS—Criteria, Reports, and Time Limitations

Promptly after receiving an allegation of research misconduct, defined as a disclosure of possible research misconduct through any means of communication, we shall assess the allegation to determine if:

(1) it meets the definition of research misconduct in 42 CFR Section 93.103 (see definitions below);

(2) it involves either Public Health Service (PHS) supported research, applications for PHS research support, or research records specified in 42 CFR Section 93.102(b) (see document at: www.brockport.edu/etc/forms); and,

(3) the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

Inquiry

If it is determined that an inquiry (i.e., an initial review of the evidence to determine if the criteria for conducting an investigation have been met) is warranted, we shall complete the inquiry, including preparation of the inquiry report and giving the respondent a reasonable opportunity to comment on it, within 60 calendar days of its initiation, unless the circumstances warrant a longer period. If the inquiry takes longer than 60 days to complete, we shall include documentation of the reasons for the delay in the inquiry record. The inquiry report shall contain the following information: (1) The name and position of the respondent(s); (2) A description of the allegations of research misconduct; (3) The PHS support involved, 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 Misconduct Policy Officer will make a written determination of whether an investigation is warranted. This report shall be filed with the Vice President for Academic Affairs with an assessment as to whether or not the allegation(s) is warranted, and the reasons attendant thereto. The Misconduct Policy Officer will maintain sufficiently detailed documentation of inquiries to permit a later assessment of the reasons for determining that an investigation was not warranted, if necessary. Such records shall be maintained in a secure manner for a period of at least three years after the termination of the inquiry and shall, upon request, be provided to authorized representatives of sponsoring and funding agencies.

The Vice President for Academic Affairs shall determine on the basis of the written report of the inquiry, and any other consultation deemed necessary, whether the allegations warrant a formal investigation. In either case, the basis for the decision will be fully documented.

*If the decision of the Vice President for Academic Affairs is that **no** investigation is warranted, the Vice President for Academic Affairs will notify all those concerned of this determination. The Vice President for Academic Affairs may also examine the propriety of the initial charge and take further action if appropriate.*

Investigation

If the decision of the Vice President for Academic Affairs is that an investigation is necessary, the Vice President for Academic Affairs or his designee shall:

Appoint a Misconduct Investigation Committee, which will have the following membership:

Misconduct Policy Officer (Chair)
Dean/Director of Appropriate Area
Director of Research & Sponsored Programs (or designee)
Other Administrators as Appropriate

This committee will *begin* the investigation within 30 calendar days of the *investigation* and prepare a report for the Vice President for Academic Affairs.

If the misconduct relates to funded research, on or before the date on which the investigation begins, an inquiry report will be sent with a written determination to the Office of Research Integrity (ORI) or other appropriate funding agency. We shall use our best efforts to complete the investigation within 120 calendar days of the date on which it began, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to ORI or other agency when appropriate. If it becomes apparent that we cannot complete the investigation within that period, we shall promptly request an extension in writing from ORI or other agency. This time period does not apply to separate termination hearings.

In conducting all investigations, we shall: (1) Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the allegations; (2) 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 record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of investigation; (3) Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion; and (4) Otherwise comply with the requirements for conducting an investigation in 42 CFR Section 93.310 (see document at: www.brockport.edu/etc/forms).

We shall prepare the draft and final institutional investigation reports in writing and provide the draft report for comment as provided elsewhere in these policies and procedures and 42 CFR Section 93.312 (see document at: www.brockport.edu/etc/forms). The final investigation report shall:

- (1) Describe the nature of the allegations of research misconduct;*
- (2) Describe and document the PHS or other funding support, including, for example any grant numbers, grant applications, contracts, and publications listing PHS support;*
- (3) Describe the specific allegations of research misconduct considered in the investigation;*
- (4) Include the institutional policies and procedures under which the investigation was conducted, if not already provided to ORI or other funding agency;*
- (5) Identify and summarize the research records and evidence reviewed, and 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.*
- (6) Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and if misconduct was found, (i) identify it as falsification, fabrication, or plagiarism and whether it was intentional, knowing, or in reckless disregard, (ii) summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent's explanations, (iii) identify the specific PHS or other support; (iv) identify any publications that need correction or retraction; (v) identify the person(s) responsible for the misconduct, and (vi) list any current support or known applications or proposals for support that the respondent(s) has pending with non-PHS Federal agencies; and*
- (7) Include and consider any comments made by the respondent and complainant on the draft investigation report.*

We shall maintain and provide to ORI upon request all relevant research records and records of our research misconduct proceeding,

including results of all interviews and the transcripts or recordings of such interviews.

Ensuring a Fair Research Misconduct Proceeding

We shall take all reasonable steps to ensure an impartial and unbiased research misconduct proceeding to the maximum extent practicable. We shall select those conducting the inquiry or investigation on the basis of scientific expertise that is pertinent to the matter and, prior to selection, we shall screen them for any unresolved personal, professional, or financial conflicts of interest with the respondent, complainant, potential witnesses, or others involved in the matter. Any such conflict which a reasonable person would consider to demonstrate potential bias shall disqualify the individual from selection.

Notice to Respondent

During the research misconduct proceeding, we shall provide the following notifications to all identified respondents:

Initiation of Inquiry. Prior to or at the beginning of the inquiry, we shall provide the respondent(s) written notification of the inquiry and contemporaneously sequester all research records and other evidence needed to conduct the research misconduct proceeding. If the inquiry subsequently identifies additional respondents, they shall be promptly notified in writing.

Comment on Inquiry Report. We shall provide the respondent(s) an opportunity to comment on the inquiry report in a timely fashion so that any comments can be attached to the report.

Results of the Inquiry. We shall notify the respondent(s) of the results of the inquiry and attach to the notification copies of the inquiry report and these institutional policies and procedures for the handling of research misconduct allegations.

Initiation of Investigation. Within a reasonable time after our determination that an investigation is warranted, but not later than 30 calendar days after that determination, we shall notify the respondent(s) in writing of the allegations to be investigated. We shall give respondent(s) written notice of any new allegations within a reasonable time after determining to pursue allegations not addressed in the inquiry or in the initial notice of the investigation.

Scheduling of Interview. We will notify the respondent sufficiently in advance of the scheduling of his/her interview in the investigation so that the respondent may prepare for the interview and arrange for the attendance of legal counsel, if the respondent wishes.

Comment on Draft Investigation Report. We shall give the respondent(s) a copy of the draft investigation report, and concurrently, a copy of, or supervised access to, the evidence on which the report is based and notify the respondent(s) that any comments must be submitted within 30 days of the date on which he/she received the draft report. We shall ensure that these comments are included and considered in the final investigation report.

Agency Notifications

On or before the date on which the investigation begins (the investigation must begin within 30 calendar days of our finding that an investigation is warranted), we shall provide ORI or other funding agencies with the written finding by the Misconduct Policy Officer and a copy of the inquiry report containing the information required by 42 CFR Section 93.309(a) (see document at: www.brockport.edu/etc/forms). Upon a request from ORI or other funding agency we shall promptly send them: (1) a copy of our institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges for the investigation to consider.

We shall promptly provide to ORI or other funding agency after the investigation: (1) A copy of the investigation report, all attachments, and any appeals; (2) A statement of whether the institution found research misconduct and, if so, who committed it; (3) A statement of whether the institution accepts the findings in the investigation report; and (4) A description of any pending or completed administrative actions against the respondent.

Maintenance and Custody of Research Records and Evidence

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

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

(2) *Where appropriate, give the respondent copies of, or reasonable, supervised access to the research records.*

(3) *Undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding, including at the inquiry and investigation stages, or if new allegations arise, subject to the exception for scientific instruments in (1) above.*

(4) *We shall maintain all records of the research misconduct proceeding, as defined in 42 CFR Section 93.317(a) (see document at: www.brockport.edu/etc/forms), for 7 years after completion of the proceeding, or any ORI or HHS proceeding under Subparts D and E of 42 CFR Part 93 (see document at: www.brockport.edu/etc/forms), whichever is later, unless we have transferred custody of the records and evidence to HHS, or ORI has advised us that we no longer need to retain the records.*

Interim Protective Actions

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

Notifying ORI or other funding agency of Special Circumstances that may Require Protective Actions

At any time during a research misconduct proceeding, we shall notify ORI immediately if we have 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 interests 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 interests of those involved in the research misconduct proceeding.*

(6) *We believe the research misconduct proceeding may be made public prematurely, so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.*

(7) *We believe the research community or public should be informed.*

III. DISPOSITION:

Institutional Actions in Response to Final Findings of Research Misconduct

At the conclusion of the investigation, the Vice President for Academic Affairs or his designee will:

1. Submit a written report to the President of the results of the investigation. Included in this report shall be:
 - a. A statement of the accusation.
 - b. A statement of the findings.
 - c. An indication of the evidence or lack of evidence of misconduct.
 - d. An evaluation of the seriousness of any misconduct found.

- e. Recommendations for further action.
2. Submit a copy of the report to the accused for rebuttal. Include any written rebuttal by the accused as an addendum to the report.

We 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.

Discipline or Sanctions

Responsibility for recommending the disciplinary action will rest with the Vice President for Academic Affairs. The nature and severity of the action is determined by the President. If misconduct is confirmed, the Vice President for Academic Affairs shall make recommendations to the President for appropriate sanctions against the subject.

The President, upon receiving the report of the Vice President for Academic Affairs and any statement of rebuttal by the accused, will make a final determination regarding what action shall be taken and formally notify all parties, including the awarding agency and Research Foundation of that decision.

If misconduct is confirmed, the institution will take appropriate action in accordance with Article 19 of the **Agreement** between the State of New York and United University Professions.

Consideration will also be given to formal notification of other concerned parties, not previously notified, such as:

- Sponsoring agencies, funding sources
- Co-authors, co-investigators, collaborators
- Editors or journals in which fraudulent research was published
- State professional licensing boards
- Editors of journals or other publications, other institutions, sponsoring agencies, and funding sources with which the individual has been affiliated
- Professional societies
- Where appropriate, criminal authorities

Restoring Reputations

Respondents. We 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 that we do so.

Complainants, Witnesses, and Committee Members We shall undertake all reasonable and practical efforts to protect and restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against those complainants, witnesses and committee members.

Cooperation with ORI or Other Funding Agency

We shall cooperate fully and on a continuing basis with ORI or other funding agency during its oversight reviews of this institution and its research misconduct proceedings and during the process under which the respondent may contest ORI findings of research misconduct and proposed HHS administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all witnesses, research records, and other evidence under our control or custody, or in the possession of, or accessible to, all persons that are subject to our authority.

Reporting to ORI or Other Funding Agency

We will report to ORI or other funding agency any proposed settlements, admissions of research misconduct, or institutional findings of misconduct that arise at any stage of a misconduct proceeding, including the allegation and inquiry stages.

These policies draw freely on the language and contents of many published and unpublished documents, including *sample policies*

published by ORI, the guidelines developed by the University of Texas, the State University of New York at Albany, SUNY Buffalo, SUNY Binghamton, SUNY Health Science Center at Syracuse, and State University College at Buffalo.

SUNY COLLEGE AT BROCKPORT

RESEARCH MISCONDUCT GUIDELINES

ALLEGATIONS

MISCONDUCT POLICY OFFICER

MISCONDUCT POLICY OFFICER CONDUCT INQUIRY

FILE REPORT WITH VPAA

No Grounds for Investigation

Recommend Investigation

Inform Involved

VPAA/Designee Appoints Committee

End

Inform President

Inform Granting Agencies

Investigation By Committee

Finding and Recommendation to VPAA

No Misconduct

Yes Misconduct

Inform Involved

VPAA Makes Recommendation to President

End

President Decides on Discipline

Inform Agencies

Disciplinary Procedures in Accordance with Article 19

SUNY College at Brockport

Policies and Procedures on Research Misconduct

9/28/05

IV. INTRODUCTION

A. Preamble

A crucial element of any policy on research misconduct that is to be fair and effective is a process that will distinguish instances of genuine and serious misconduct from insignificant deviations from acceptable practices, technical violations of rules, simple carelessness, and other such minor infractions. The policy proposed in this document will allow such distinctions to be made in a manner that minimizes disruptiveness and protects the conscientious, honest scientist from false or mistaken accusations.

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Source: 42 CFR Section 93.103

Inquiry:

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An Investigation is a formal examination and evaluation of all relevant facts to determine if an instance of misconduct has taken place. If misconduct is confirmed, the investigation should determine the seriousness of the offense and the extent of any adverse effects resulting from the misconduct.

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To assist the Vice President for Academic Affairs in the conduct of formal investigations into allegations of misconduct.
To inform sponsoring and funding agencies as appropriate.

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(3) the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

Inquiry

If it is determined that an inquiry (i.e., an initial review of the evidence to determine if the criteria for conducting an investigation have been met) is warranted, we shall complete the inquiry, including preparation of the inquiry report and giving the respondent a reasonable opportunity to comment on it, within 60 calendar days of its initiation, unless the circumstances warrant a longer period. If the inquiry takes longer than 60 days to complete, we shall include documentation of the reasons for the delay in the inquiry record. The inquiry report shall contain the following information: (1) The name and position of the respondent(s); (2) A description of the allegations of research misconduct; (3) The PHS support involved, 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 Misconduct Policy Officer will make a written determination of whether an investigation is warranted. This report shall be filed with the Vice President for Academic Affairs with an assessment as to whether or not the allegation(s) is warranted, and the reasons attendant thereto. The Misconduct Policy Officer will maintain sufficiently detailed documentation of inquiries to permit a later assessment of the reasons for determining that an investigation was not warranted, if necessary. Such records shall be maintained in a secure manner for a period of at least three years after the termination of the inquiry and shall, upon request, be provided to authorized representatives of sponsoring and funding agencies.

The Vice President for Academic Affairs shall determine on the basis of the written report of the inquiry, and any other consultation deemed necessary, whether the allegations warrant a formal investigation. In either case, the basis for the decision will be fully documented.

If the decision of the Vice President for Academic Affairs is that no investigation is warranted, the Vice President for Academic Affairs will notify all those concerned of this determination. The Vice President for Academic Affairs may also examine the propriety of the initial charge and take further action if appropriate.

Investigation

If the decision of the Vice President for Academic Affairs is that an investigation is necessary, the Vice President for Academic Affairs or their designee shall:

Appoint a Misconduct Investigation Committee, which will have the following membership:

Misconduct Policy Officer (Chair)
Dean/Director of Appropriate Area
Director of Research & Sponsored Programs (or designee)

Other Administrators as Appropriate

This committee will begin the investigation within 30 calendar days of the investigation and prepare a report for the Vice President for Academic Affairs.

If the misconduct relates to funded research, on or before the date on which the investigation begins, an inquiry report will be sent with a written determination to the Office of Research Integrity (ORI) or other appropriate funding agency. We shall use our best efforts to complete the investigation within 120 calendar days of the date on which it began, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to ORI or other agency when appropriate. If it becomes apparent that we cannot complete the investigation within that period, we shall promptly request an extension in writing from ORI or other agency. This time period does not apply to separate termination hearings.

In conducting all investigations, we shall: (1) Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the allegations; (2) 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 record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of investigation; (3) Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion; and (4) Otherwise comply with the requirements for conducting an investigation in 42 CFR Section 93.310 (see document at: www.brockport.edu/etc/forms).

We shall prepare the draft and final institutional investigation reports in writing and provide the draft report for comment as provided elsewhere in these policies and procedures and 42 CFR Section 93.312 (see document at: www.brockport.edu/etc/forms). The final investigation report shall:

- (1) Describe the nature of the allegations of research misconduct;
- (2) Describe and document the PHS or other funding support, including, for example any grant numbers, grant applications, contracts, and publications listing PHS support;
- (3) Describe the specific allegations of research misconduct considered in the investigation;
- (4) Include the institutional policies and procedures under which the investigation was conducted, if not already provided to ORI or other funding agency;
- (5) Identify and summarize the research records and evidence reviewed, and 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.
- (6) Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and if misconduct was found, (i) identify it as falsification, fabrication, or plagiarism and whether it was intentional, knowing, or in reckless disregard, (ii) summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent's explanations, (iii) identify the specific PHS or other support; (iv) identify any publications that need correction or retraction; (v) identify the person(s) responsible for the misconduct, and (vi) list any current support or known applications or proposals for support that the respondent(s) has pending with non-PHS Federal agencies; and
- (7) Include and consider any comments made by the respondent and complainant on the draft investigation report.

We shall maintain and provide to ORI upon request all relevant research records and records of our research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.

Ensuring a Fair Research Misconduct Proceeding

We shall take all reasonable steps to ensure an impartial and unbiased research misconduct proceeding to the maximum extent practicable. We shall select those conducting the inquiry or investigation on the basis of scientific expertise that is pertinent to the matter and, prior to selection, we shall screen them for any unresolved personal, professional, or financial conflicts of interest with the respondent, complainant, potential witnesses, or others involved in the matter. Any such conflict which a reasonable person would consider to demonstrate potential bias shall disqualify the individual from selection.

Notice to Respondent

During the research misconduct proceeding, we shall provide the following notifications to all identified respondents:

Initiation of Inquiry. Prior to or at the beginning of the inquiry, we shall provide the respondent(s) written notification of the inquiry and contemporaneously sequester all research records and other evidence needed to conduct the research misconduct proceeding. If the inquiry subsequently identifies additional respondents, they shall be promptly notified in writing.

Comment on Inquiry Report. We shall provide the respondent(s) an opportunity to comment on the inquiry report in a timely fashion so that any comments can be attached to the report.

Results of the Inquiry. We shall notify the respondent(s) of the results of the inquiry and attach to the notification copies of the inquiry report and these institutional policies and procedures for the handling of research misconduct allegations.

Initiation of Investigation. Within a reasonable time after our determination that an investigation is warranted, but not later than 30 calendar days after that determination, we shall notify the respondent(s) in writing of the allegations to be investigated. We shall give respondent(s) written notice of any new allegations within a reasonable time after determining to pursue allegations not addressed in the inquiry or in the initial notice of the investigation.

Scheduling of Interview. We will notify the respondent sufficiently in advance of the scheduling of his/her interview in the investigation so that the respondent may prepare for the interview and arrange for the attendance of legal counsel, if the respondent wishes.

Comment on Draft Investigation Report. We shall give the respondent(s) a copy of the draft investigation report, and concurrently, a copy of, or supervised access to, the evidence on which the report is based and notify the respondent(s) that any comments must be submitted within 30 days of the date on which he/she received the draft report. We shall ensure that these comments are included and considered in the final investigation report.

Agency Notifications

On or before the date on which the investigation begins (the investigation must begin within 30 calendar days of our finding that an investigation is warranted), we shall provide ORI or other funding agencies with the written finding by the Misconduct Policy Officer and a copy of the inquiry report containing the information required by 42 CFR Section 93.309(a) (see document at: www.brockport.edu/etc/forms). Upon a request from ORI or other funding agency we shall promptly send them: (1) a copy of our institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges for the investigation to consider.

We shall promptly provide to ORI or other funding agency after the investigation: (1) A copy of the investigation report, all attachments, and any appeals; (2) A statement of whether the institution found research misconduct and, if so, who committed it; (3) A statement of whether the institution accepts the findings in the investigation report; and (4) A description of any pending or completed administrative actions against the respondent.

Maintenance and Custody of Research Records and Evidence

We shall take the following specific steps to obtain, secure, and maintain the research records and evidence pertinent

to the research misconduct proceeding:

- (1) Either before or when we notify the respondent of the allegation, we shall promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory those materials, and sequester them in a secure manner, except in those cases where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.
- (2) Where appropriate, give the respondent copies of, or reasonable, supervised access to the research records.
- (3) Undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding, including at the inquiry and investigation stages, or if new allegations arise, subject to the exception for scientific instruments in (1) above.
- (4) We shall maintain all records of the research misconduct proceeding, as defined in 42 CFR Section 93.317(a) (see document at: www.brockport.edu/etc/forms), for 7 years after completion of the proceeding, or any ORI or HHS proceeding under Subparts D and E of 42 CFR Part 93 (see document at: www.brockport.edu/etc/forms), whichever is later, unless we have transferred custody of the records and evidence to HHS, or ORI has advised us that we no longer need to retain the records.

Interim Protective Actions

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

Notifying ORI or other funding agency of Special Circumstances that may Require Protective Actions

At any time during a research misconduct proceeding, we shall notify ORI immediately if we have 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 interests 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 interests of those involved in the research misconduct proceeding.
- (6) We believe the research misconduct proceeding may be made public prematurely, so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.
- (7) We believe the research community or public should be informed.

VI. DISPOSITION:

Institutional Actions in Response to Final Findings of Research Misconduct

At the conclusion of the investigation, the Vice President for Academic Affairs or their designee will:

3. Submit a written report to the President of the results of the investigation. Included in this report shall be:
 - a. A statement of the accusation.

- b. A statement of the findings.
 - c. An indication of the evidence or lack of evidence of misconduct.
 - d. An evaluation of the seriousness of any misconduct found.
 - e. Recommendations for further action.
4. Submit a copy of the report to the accused for rebuttal. Include any written rebuttal by the accused as an addendum to the report.

We 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.

Discipline or Sanctions

Responsibility for recommending the disciplinary action will rest with the Vice President for Academic Affairs. The nature and severity of the action is determined by the President. If misconduct is confirmed, the Vice President for Academic Affairs shall make recommendations to the President for appropriate sanctions against the subject.

The President, upon receiving the report of the Vice President for Academic Affairs and any statement of rebuttal by the accused, will make a final determination regarding what action shall be taken and formally notify all parties, including the awarding agency and Research Foundation of that decision.

If misconduct is confirmed, the institution will take appropriate action in accordance with Article 19 of the Agreement between the State of New York and United University Professions.

Consideration will also be given to formal notification of other concerned parties, not previously notified, such as:

- Sponsoring agencies, funding sources
- Co-authors, co-investigators, collaborators
- Editors or journals in which fraudulent research was published
- State professional licensing boards
- Editors of journals or other publications, other institutions, sponsoring agencies, and funding sources with which the individual has been affiliated
- Professional societies
- Where appropriate, criminal authorities

Restoring Reputations

Respondents. We 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 that we do so.

Complainants, Witnesses, and Committee Members We shall undertake all reasonable and practical efforts to protect and restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against those complainants, witnesses and committee members.

Cooperation with ORI or Other Funding Agency

We shall cooperate fully and on a continuing basis with ORI or other funding agency during its oversight reviews of this institution and its research misconduct proceedings and during the process under which the respondent may contest ORI findings of research misconduct and proposed HHS administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all witnesses, research records, and other evidence under our control or custody, or in the possession of, or accessible to, all persons that are subject to our authority.

Reporting to ORI or Other Funding Agency

We will report to ORI or other funding agency any proposed settlements, admissions of research misconduct, or institutional findings of misconduct that arise at any stage of a misconduct proceeding, including the allegation and inquiry stages.

These policies draw freely on the language and contents of many published and unpublished documents, including sample policies published by ORI, the guidelines developed by the University of Texas, the State University of New York at Albany, SUNY Buffalo, SUNY Binghamton, SUNY Health Science Center at Syracuse, and State University College at Buffalo.

SUNY COLLEGE AT BROCKPORT

RESEARCH MISCONDUCT GUIDELINES

ALLEGATIONS

MISCONDUCT POLICY OFFICER

MISCONDUCT POLICY OFFICER CONDUCT INQUIRY

FILE REPORT WITH VPAA

No Grounds for Investigation

Recommend Investigation

Inform Involved

VPAA/Designee Appoints Committee

End

Inform President

Inform Granting Agencies

Investigation By Committee

Finding and Recommendation to VPAA

No Misconduct

Yes Misconduct

Inform Involved

VPAA Makes Recommendation to President

End

President Decides on Discipline

Inform Agencies

Disciplinary Procedures in Accordance with Article 19