

NEW POLICY: Defines research misconduct, sets out procedure for determination of violation, and range of sanctions.



NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY

SEC. V— RESEARCH COMPLIANCE AND ETHICS 2.0

RESEARCH MISCONDUCT

UNIVERSITY POLICY

I. INTRODUCTION

In all of its research activities, North Carolina Agricultural and Technical State University expects the highest standards of professional and ethical conduct. Research integrity cannot feasibly be separated from any other professional efforts to establish and maintain the expectations and honor of being designated a Doctoral Research University. Unethical behavior in research represents a breach of the confidence among faculty and other research scientists that is central to the advancement of knowledge. It also undermines the confidence that the public and research subjects should have in the reliability of the University. For these reasons, the University considers research misconduct, as defined below, a betrayal of fundamental scientific and research principles, and shall deal promptly with all instances of possible research misconduct.

II. SCOPE

This policy applies to all research, funded or unfunded. All North Carolina Agricultural and Technical State University investigators, co-investigators, students (undergraduate and graduate), and post-docs are required to report observed or suspected research misconduct and to participate in the inquiry and investigative process. All University investigators, co-investigators, students, and post-docs are subject to the findings of inquiry and investigative committees and the final decisions made by the Provost.

III. RESEARCH MISCONDUCT DEFINED

A. Research misconduct includes fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting the results.

1. Fabrication is making up data or results and recording or reporting them.
2. 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.
 - a. The research record is the record of data or results that embody the facts resulting from the research inquiry and includes, but is not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, books, dissertations, and journal articles.
3. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

B. A finding of research misconduct requires that:

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

C. Research misconduct does not include honest error or differences of opinion.

IV. OBLIGATION TO REPORT

Anyone having reason to believe that a faculty member, post-doc, staff member, or student has engaged in research misconduct is required to report it to his or her department chair or dean, the Provost, the Director of Research Compliance and Ethics, the Vice Chancellor for Research and Economic Development, or the University hotline. In addition, all faculty members, post-docs, staff members, and students are obligated to cooperate in any research misconduct proceeding.

The Director of Research Compliance and Ethics serves as the University's Research Integrity Officer (RIO). Any University official who receives a report of research

misconduct must immediately notify the Director of Research Compliance and Ethics of the allegation.

In the case of an allegation of research misconduct involving sponsored research, the RIO will inform the Vice Chancellor for Research and Economic Development, who is obligated to report any finding of misconduct to any sponsor of a research project under which research misconduct has been found to occur.

If an individual is uncertain about whether observed or suspected conduct constitutes research misconduct, that individual may meet with the Director of Research Compliance and Ethics for an informal discussion.

If reported allegations do not meet the criteria set out in this policy for research misconduct, the Director of Research Compliance and Ethics will notify the complainant.

V. CONFIDENTIALITY

Research misconduct proceedings are confidential matters and care shall be taken to maintain the confidentiality of proceedings conducted under this Policy. To the extent possible, consistent with a fair and thorough investigation and as permitted by law, knowledge about the identity of the subjects, informants, and research subjects is limited to those who need to know.

VI. SAFEGUARDS FOR INFORMANTS (Complainants/Whistleblowers)

The University provides safeguards for informants to ensure that individuals making allegations of research misconduct in good faith or serving as informants to an inquiry or an investigation will not suffer retribution. These safeguards include:

1. Provision of the ethics hotline whereby anonymous reports can be made by phone.
2. Protection against retaliation for informants who make good faith allegations.
3. Fair and objective procedures for the examination and resolution of allegations of research misconduct.
4. Diligence in protecting the positions and reputations of those persons who make allegations of research misconduct in good faith.

VII. SAFEGUARDS FOR SUBJECTS OF ALLEGATIONS (Respondents)

The University provides safeguards for subjects of allegations to ensure that individuals have confidence their rights are protected and that the mere filing of an allegation of research misconduct against them will not bring their research to a halt or be the basis for disciplinary or adverse action absent other compelling reasons.

These safeguards include:

1. Provision of timely written notification to subjects of allegations regarding substantive allegations made against them.
2. Provision of a description of all allegations.
3. Reasonable access to the data and other evidence supporting the allegations.
4. The opportunity to respond to allegations, supporting evidence, and the proposed findings of research misconduct, if any.

VIII. THE INQUIRY PROCESS

- A. Upon receiving notice of alleged research misconduct, the RIO will, as soon as practical, review the allegations to determine whether (1) the alleged misconduct, if true, falls under this policy; and (2) the allegations are sufficiently credible and specific so that potential evidence of research misconduct may be identified. If and only if the RIO determines that both criteria are met, then the RIO will proceed with the inquiry process.
- B. If the RIO determines that the inquiry process should begin, the RIO shall so notify the Respondent in writing of at the time of or before beginning the inquiry. If the inquiry identifies additional respondents, the RIO must notify them.
- C. The RIO must, on or before the date on which the Respondent is notified or the inquiry begins, whichever is earlier, promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research 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 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.
- D. The Provost shall, in consultation with the RIO and Legal Counsel, appoint an Inquiry Committee. The Inquiry Committee should consist of at least three individuals who possess the necessary expertise to evaluate the available evidence

regarding the allegation(s). The members of the committee should be free of conflicts of interest of a personal, professional, or financial nature.

- E. The purpose of the inquiry is to gather and conduct an initial review of the evidence to determine whether an investigation is warranted. The Inquiry Committee should not include a decision as to whether research misconduct occurred, but should be limited to determining whether there is sufficient substantive evidence of possible Research Misconduct to recommend further investigation.
- F. An investigation is warranted if (1) it reasonably appears that the alleged misconduct falls within this policy; and (2) preliminary information gathering and preliminary fact-finding from the inquiry indicates that the allegations may have substance.
- G. The Inquiry Committee shall prepare an Inquiry Report, which should include the following information: (1) the name and position of the Respondent; (2) a description of the allegations of research misconduct; (3) if the research is sponsored research, relevant information about the support; (4) the names and titles of the committee members; (5) the methods and procedures used to gather information and evaluate the allegations; (6) a summary or list of the evidence reviewed; (7) the recommendation regarding whether to proceed with an investigation and the reasons for the recommendation.
- H. The RIO must notify the Respondent whether the inquiry found that an investigation is warranted. The notice must include a copy of the Inquiry Report and either a copy of or reference to this policy and any applicable federal regulations.
- I. The Respondent must be given an opportunity to review and comment on the Inquiry Report. Any comments received from the Respondent should be attached to the Inquiry Report described in subsection G and become part of the Inquiry Report. After reviewing the comments from the respondent, the Inquiry Committee will make the determination, in writing, whether an investigation is warranted.
- J. The RIO shall forward the final determination, including the Respondent's comments, if any, to the Provost and to the Respondent. The RIO shall also forward a copy of this policy to the Respondent. The Provost will notify the appropriate Dean of the results of the inquiry.

- K. The Inquiry Process must be completed within 60 calendar days of its initiation. The RIO may grant an extension of time if circumstances clearly warrant a longer period. If an extension of time is granted, the reasons for the extension must be documented.

- L. If it is determined that an investigation is warranted, then within 30 days of the conclusion of the inquiry:
 - 1. The Vice Chancellor for Research and Economic Development shall notify any research sponsors as required by federal regulations of the determination that an investigation is warranted and provide a copy of the Inquiry Report; and
 - 2. The Provost, in consultation with the RIO, Legal Counsel, and the appropriate Dean, shall appoint an Investigation Committee and refer the matter to it.

- M. If it is determined that an investigation is not warranted and the research associated with the allegations was sponsored research, then the RIO must keep sufficiently detailed documentation of the inquiry to permit later assessment by the funding agency of the reasons why no investigation was conducted. This documentation must be preserved in a secure manner for at least seven years after the termination of the inquiry.

IX. THE INVESTIGATION PROCESS

- A. If it is determined in the Inquiry Process that an investigation is warranted, the investigation must begin within 30 days of that determination. The Respondent must be notified of the determination that an investigation is warranted prior to the beginning of the investigation.

- B. The Respondent will be notified in writing of the Investigation Committee members appointed by the Provost to conduct the investigation. The Respondent will have five (5) days of receiving notification to request replacement of a member on a reasonable showing of potential bias or conflict of interest. The decision as to whether or not to replace a member of The Investigation Committee may not be appealed during the pendency of the investigation.

- C. If there are any new allegations of research misconduct that are to be addressed in the investigation that were not addressed during the inquiry, the Respondent must be given written notice of these new allegations within a reasonable amount of time.

- D. To the extent the RIO has not already done so, the RIO must obtain, inventory, and secure all the research records and evidence needed to conduct the research misconduct proceeding, consistent with the process outlined in Section VIII.C. If additional items become known or relevant to the investigation, whenever possible the RIO must obtain custody of these items.
- E. The members of the Investigation Committee shall consist of at least five senior University faculty members who are free of conflicts of interest of a personal, professional, or financial nature, and have appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence.
- F. The Investigation Committee must:
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. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practicable.
 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.
 4. The Investigation Committee shall hold a hearing, during which the committee will interview the Respondent, the 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. The Hearing will be recorded or transcribed, and the relevant portion of the recording or transcript will be provided to each witness for correction. The recording or transcript will be included in the record of the investigation. The hearing shall be closed to the public unless the Respondent and the committee chair agree that it may be open. The Respondent shall have the opportunity to be present, the right to counsel at his or her own expense, the opportunity to present the testimony of witnesses and other evidence, the opportunity to confront and cross-examine witnesses, and the opportunity to examine all documents, other evidence, and to comment on committee membership.
- G. The Investigation Committee shall draft a written Investigation Report, which must include:
1. The name and position of the Respondent.

2. The names and titles of the committee members.
3. A description of the nature of the allegations of research misconduct.
4. If the research is sponsored research, relevant information about the support, including, for example, grant numbers, grant applications, contracts, and publications listing the external support.
5. A description of the specific allegations of research misconduct for consideration in the investigation.
6. An identification and summary of the research records and evidence reviewed, and an identification of any evidence taken into custody but not reviewed.
7. For each separate allegation of research misconduct identified during the investigation, there must be a finding as to whether, using the preponderance of evidence standard, research misconduct did or did not occur. For each finding that research misconduct did occur, the finding should also (1) identify whether the research misconduct was falsification, fabrication, plagiarism, or something else included within research misconduct in this policy (identify what it was); (2) state that the misconduct was found to be a significant departure from accepted practices of the relevant research community; (3) state whether the misconduct was committed intentionally, knowingly, or recklessly; (4) summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the Respondent; (5) identify the specific external support, if any; (6) identify whether any publications need correction or retraction; (7) identify the person(s) responsible for the misconduct; and (8) list any current support or known applications or proposals for support that the Respondent has pending with federal agencies.

H. The Respondent must be given an opportunity to comment on the draft Investigation Report. The Respondent must be provided with a copy of the draft Investigation Report and a copy of, or supervised access to, the evidence on which the report is based. The Respondent must provide any comments on the draft report, in writing, within 30 days of the date the Respondent received the copy of the draft.

I. Within 10 days of receiving the Respondent's comments about the draft Investigation Report, the Investigation Committee must consider any comments received from the Respondent and finalize the Investigation Report, and the RIO must forward the final Investigation Report to the Provost for a final determination. The Final Investigation Report must include all

components identified in subsectionG, and Respondent's comments should be attached to, and become part of, the final Investigation Report.

- J. After examining the Investigation Report, the Provost shall issue a written determination indicating whether the Provost accepts the findings of the Investigation Committee and specifying the appropriate actions to be taken in response to any accepted findings of research misconduct. The Provost's determination regarding whether research misconduct occurred is final. The Provost's decision letter will set out the appeal rights of the Respondent.
- K. The Investigation Process must be completed within 120 days of its beginning. If the Investigation Process cannot be completed within 120 days, the committee may request an extension from the Vice Chancellor for Research and Economic Development. If the research associated with the alleged research misconduct is externally sponsored, the Vice Chancellor shall request an extension in writing from the appropriate funding agency.
- L. The RIO must maintain all relevant research records and records of the research misconduct proceeding in a secure manner for seven years after completion of the proceeding.

X. THE EFFECT OF RESPONDENT'S ADMISSION OF GUILT

If the research is externally sponsored, the funding agency must be notified prior to closing a case at the inquiry or investigation stage on the basis that the Respondent has admitted guilt, a settlement has been reached with the Respondent, or for any other reason except for a determination at the inquiry stage that an investigation is not warranted or a finding at the investigation stage that research misconduct did not occur.

XI. INTERIM ADMINISTRATIVE ACTION AND SPECIAL CIRCUMSTANCES

- A. The Provost may deem it necessary for administrative actions to be taken during the course of an inquiry or investigation process. Such actions may also be recommended by a department chair or dean. Such actions may be necessary to prevent misuse of research awards or other forms of professional or research misconduct. Other departments such as Contracts and Grants, Purchasing, and Sponsored Programs may be ordered by the Provost to implement imposed administrative orders such as to cease or limit access to grant funds. Inquiry, Investigation and Research Compliance committees may also impose actions to

protect human subjects, animal subjects, the public interest and welfare (i.e. suspending research related activities, requiring reassignment of an investigator, requiring lab closure, etc.).

- B. At any time during a research misconduct proceeding, if the research is sponsored by an external source, the Vice Chancellor for Research and Economic Development must immediately notify the funding agency if 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. Agency resources or interests are threatened.
 3. Research activities should be suspended.
 4. There is a reasonable indication of possible violations of civil or criminal law.
 5. Federal or State action is required to protect the interests of those involved in the research misconduct proceeding.
 6. The research misconduct proceeding may be made public prematurely (so that the funding agency may take appropriate steps to safeguard evidence and protect the rights of those involved).
 7. The research community or public should be informed.

XII. POSSIBLE SANCTIONS FOR A FINDING OF RESEARCH MISCONDUCT

- A. If the Provost determines that research misconduct has occurred, administrative or disciplinary sanctions may be imposed on the Respondent. Possible sanctions include, but are not limited to:
1. Appropriate steps to correct the research record
 2. Letter of reprimand
 3. The imposition of special certification or assurance requirements to ensure compliance with applicable regulations or terms of an award
 4. Suspension or termination of an active award
 5. Responsible Conduct of Research (RCR) Training (Basic or Individualized)
 6. Additional oversight for conducting research by a senior investigator
 7. Additional oversight for developing and submitting proposals
 8. Certification of data and/or sources for a specified period of time
 9. Debarment for a designated period of time from (i) conducting or publishing research; (ii) serving on University level committees; (iii) advising student research; or (iv) receiving research or other awards

10. Written warning, demotion, suspension, salary reduction, dismissal, or other serious discipline

- B. A decision regarding what administrative or disciplinary actions are appropriate should take into account the seriousness of the misconduct, including, but not limited to: the degree to which the misconduct was knowing intentional, or reckless; was an isolated event or part of a pattern; or had significant impact on the research record, research subjects, other researchers, institutions, or the public welfare.
- C. The imposition of any administrative action or disciplinary sanction must be consistent with existing personnel policies and laws, and with student policies and codes.
- D. If there is reason to believe that criminal or civil fraud violations may have occurred, the matter shall be promptly referred to the appropriate investigative body.
- E. The imposition of administrative action or discipline by the University does not limit the authority of an external sponsor to impose its own sanctions. Sanctions imposed upon investigators, students, or post-docs by a funding agency will be facilitated by the RIO, the Provost, and the Vice Chancellor for Research and Economic Development. The Provost will determine whether agency sanctions will have an effect on the sanctions imposed by the University.

XIII. REPORTS TO SPONSORS

- A. The Vice Chancellor for Research and Economic Development will send the final Investigation Report, with all attachments, and the Provost's written determination, along with this policy, to the federal agency providing external funding, if any. In addition, the Vice Chancellor must describe any pending or completed administrative or disciplinary actions against the Respondent.
- B. The Director of Research Compliance and Ethics will facilitate notifying external sponsors. Other departments such as Contracts and Grants, Sponsored Programs and Purchasing may be required to cooperate in communication with a sponsor.

XIV. REPORTS TO REGULATORY AGENCIES

The Vice Chancellor for Research and Economic Development will be responsible for including allegations and investigative determinations in the University's annual research misconduct report to the Office of Research Integrity and for updating this policy.

Approved by the Board of Trustees

Date policy is effective: upon approval

First approved: April 27, 2018

Revised:

Harold L. Martin, Sr., Ph.D.
Chancellor

Approved for final posting

Sanjiv Sarin, Ph.D.
Interim Vice Chancellor for Research and Economic Development

Approved for final posting