PM 01-08
President James E. Lyons, Sr.

Policy and Procedures for Dealing with and Reporting Possible Misconduct in Research
[This PM supercedes PM 89-19]

POLICY

Research and creative activity are becoming a major force in the life of California State University, Dominguez Hills (CSUDH). Faculty, staff, and students are increasingly involved in projects designed to add to knowledge, provide students with the latest findings in a field, and/or explore solutions to problems in the world surrounding the institution. CSUDH is responsible for the integrity of the research and projects conducted at the institution or under its authority and recognizes the importance of ethical behaviors in the conduct of scholarly inquiry:

Key elements in the process are the objective and accurate reporting of data accumulated in the course of experimentation, and verification of research findings to assure valid conclusions. In addition, generally-sanctioned standards of conduct and propriety, when followed, not only assure the integrity of the scientific professions, but engender public support for, and lend credibility to, the scientific endeavor as a whole.[1]

In addition to the university's own concern for the integrity of the process, federal regulations require that each institution that applies for or receives federal support for research must have explicit procedures for addressing incidents in which there are allegations of misconduct in research.

This policy and the set of procedures that follows incorporate the federal requirements into the institutional framework. They apply to all employees of CSUDH who are engaged in research and creative activities whether funded or not. They are designed to deal with any possible allegations of misconduct on the part of campus researchers while protecting the rights and privacy of both the complainant and the respondent. Furthermore, the document takes into account relevant provisions of the collective bargaining agreements between the CSU and its faculty and staff.[2]

DEFINITIONS

"Misconduct" or **"Misconduct in Science"** means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reviewing research or reporting research results. It does not include honest error or honest differences in interpretations or judgments of fact.

"Inquiry" mans information gathering and initial fact finding to determine whether an allegation or apparent instance of research misconduct warrants an investigation.

"Investigation" means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and, if so, to determine the responsible person(s) and the seriousness of the misconduct.

UNDERLYING PRINCIPLES

- The Association of American Medical Colleges identifies a set of "imperatives that should guide any institutional process for dealing with allegations of misconduct…"[3] They can be translated into a set of principles that meet federal requirements within the CSUDH environment:

- The university should ensure that the process used to resolve allegations of misconduct does not damage scholarship itself.

- The university should provide vigorous leadership in the pursuit and resolution of all charges.

- All parties should be treated with justice, fairness, and sensitivity for their reputations and vulnerabilities.

- Procedures should preserve the highest attainable degree of confidentiality compatible with an effective and efficient response to allegations of misconduct.

- The integrity of the process should be maintained by painstaking avoidance of real or apparent conflict of interest.

- Procedures should be as expeditious as possible leading to resolution of allegations in a timely manner.

- Pertinent facts and actions should be documented at each stage of the process.

The procedures set out in the following sections are based on these principles.

PROCEDURES

Initial Allegations of Misconduct

Formal allegations of misconduct in research must be submitted in writing to the Vice President for Academic Affairs. In order to determine whether the concerned activity falls within the definition of research misconduct, an individual may meet confidentially with the Vice President for Academic Affairs prior to preparation of the written document. If the circumstances described by the individual do not meet that definition, the Vice President for Academic Affairs will refer the individual to a dean, department chair, or other official responsible for oversight of the research in question. The Vice President for Academic Affairs will acknowledge receipt of the allegation in writing to the complainant.

If the Vice President for Academic Affairs has reason to believe that misconduct has occurred, but there is no formal written allegation, the Vice President may pursue the matter independently following the procedures outlined below.

In all cases, every effort should be made to maintain confidentiality for the protection of those who submit allegations of misconduct in science and for those against whom such allegations are made.

Inquiry

An inquiry is to be initiated y the Vice President for Academic Affairs within fifteen (15) days following receipt of an allegation of misconduct in research. The purpose of the inquiry is to

make a preliminary evaluation of the available evidence and the testimony of the respondent, the complainant, and key witnesses to determine whether there is sufficient evidence of possible misconduct to warrant a full investigation. The Vice President for Academic Affairs will have relevant physical evidence sequestered and will notify the respondent in writing when an inquiry is opened.

For purposes of the inquiry, the Vice President for Academic Affairs shall appoint a three-member Committee of inquiry consisting of the following:

- The dean of the school of the individual against whom the allegation has been filed;
- One faculty member from the discipline in which the research is being conducted; and
- One faculty member from another discipline (selected in consultation with the Chair of the Academic Senate).

Substitutions or additions may be made if necessary to assure inclusion of members with appropriate seniority and knowledge who do not have a conflict of interest that would interfere with an objective review. If staff or students are involved, appropriate substitutions might include other staff or student representatives. The designated dean shall chair the Committee of Inquiry

The Vice President for Academic Affairs shall charge the Committee of Inquiry, in writing, to conduct a discreet inquiry leading to a determination as to whether or not a formal investigation is warranted. Unless a written request for an extension has been approved by the Vice President for Academic Affairs and all parties have been notified, the Committee is expected to complete its inquiry within sixty (60) calendar days. The Committee's recommendations should be made to the Vice President for Academic Affairs and documented in writing. The respondent shall be provided a copy of the draft inquiry report for comment and rebuttal; the complainant, if identifiable, shall be provided with a summary of the inquiry findings for comment. Comments and rebuttal from all parties should be provided to the Committee of Inquiry within fourteen (14) calendar days of receipt of the draft report and will become part of the final inquiry report and record. The Vice President for Academic Affairs reviews the recommendations of the Committee of Inquiry and renders a decision. If there is to be no further action, the following reminder from the AAMC should be observed:

If an allegation is found to be unsupported but has been submitted in good faith, no further formal action, other than informing all involved parties, should be taken. The proceedings of an inquiry, including the identify of the respondent, should be held in strict confidence to protect the

parties involved. If confidentiality is breached, the institution should take reasonable steps to minimize the damage to reputations that may result from inaccurate reports.

The institution should seek to protect the complainant against retaliation, including protecting anonymity whenever possible…[4] If the decision is to move forward with an investigation, the respondent and the complainant shall be notified in writing, the report of the Committee of Inquiry along with supporting documentation shall be forwarded to the Committee of Investigation, and the agency sponsoring the research shall be notified. For Federally sponsored research, appropriate Federal authorities (e.g., ORI) should be notified at any stage of the inquiry or investigation if

1. there is an immediate health hazard involved
2. there is an immediate need to protect Federal funds or equipment
3. there is an immediate need to protect the interest of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any
4. It is probably that the alleged incident is going to be reported publicly; or
5. the allegation involves a sensitive public health issue, e.g., a clinical trial; or
6. there is a reasonable indication of possible criminal violation or physical violence. In this instance, the institution must inform ORI within twenty-four (24) hours of obtaining that information, and local public safety or policy should be contacted as appropriate.

Investigation

The purpose of the investigation is to explore the allegations in detail, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. It will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. Any research records not previously sequestered during the inquiry phase should be sequestered for use by the Committee of Investigation.

The Vice President for Academic Affairs shall appoint a Committee of Investigation within thirty (30) days of the

decision to initiate an investigation. The Committee should consist of at least five individuals who do to have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegations. These individuals may be researchers, administrators, subject matter experts, lawyers, or other qualified persons from inside or outside the institution. The appointments shall be made in consultation with the chair of the Academic Senate. The respondent shall be informed of the proposed Committee membership; if the respondent submits a written objection to any appointed member, the Vice President for Academic Affairs shall determine whether to replace the challenged member or expert with a qualified substitute. The Vice president shall designate one member of the Committee as chair.

The Vice President for Academic Affairs shall charge the Committee in writing to conduct a thorough investigation of the allegation. The charge will define the subject matter of the investigation, describe the allegations and related issues identified during the inquiry, provide definitions of research misconduct, and identify the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, the complainant, and key witnesses to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, to what extent, who was responsible, and its seriousness. The charge will further emphasize the need for confidentiality in all matters related to the investigation.

The investigation process will normally involve examination of all documentation, including such items as relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Interviews of the respondent should be tape recorded or transcribed. All other interviews should be transcribed, tape recorded, or summarized. Summaries or transcripts should be provided to the interviewed party for comment or revisions and included as part of the investigation's file. While the function of the investigation is fact finding, the Committee and/or the respondent may choose to retain legal counsel for the purposes of advice.

If deemed necessary and recommended by the Committee of Investigation, interim administrative action may be taken to 1) protect human subjects involved in the research under review; 2) protect animal subjects in the research under review; or 3) prevent inappropriate expenditure of funds on the research under review.

The Committee of Investigation shall complete the investigation, and its report, within one hundred twenty (120) calendar days from its first meeting date unless it finds that its

work cannot reasonably be completed within that time, in which case the Committee may request a thirty (30) calendar day extension from the Vice President for Academic Affairs. The request should include the reasons for the delay, a progress report, an outline of remaining steps, and an estimated date of completion. The Vice President will forward the request to the Federal sponsoring agency, if appropriate. If the university 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 it, shall be made to appropriate Federal or private sponsors if the project is funded.

The Committee of Investigation's final report must document the extent to which, if at all, it has determined that misconduct has occurred. An investigation may result in one of several outcomes, including the following:

1. A finding of misconduct;
2. A finding that no culpable conduct was committed, but serious scientific or research errors were discovered; or
3. A finding that no fraud, misconduct, or serious scientific or research error was committed.

The report must identify the policies and procedures under which the investigation was conducted, a description of how and from whom information relevant to the investigation was obtained, and the basis for the findings. The report shall include the actual test or an accurate summary of the views of any individual(s) found to have engaged in misconduct; it may also recommend a course of action based on the findings.

A draft of the report shall be provided to the respondent, and a summary of the portions of the draft that address the complainant's role and opinions shall be provided to the complainant. The respondent and complainant will have ten (10) days to respond or comment. The respondent's comments will be attached to the final report; the report may be modified, as appropriate, based on the complainant's comments. Circulation of the draft report will be done under conditions of strictest confidentiality.

Based on a preponderance of the evidence, the Vice President for Academic Affairs will make a final determination whether to accept the investigation report, its findings, and any recommended institutional actions. If the Vice President's determination varies from that of the Committee of Investigation, the institution's letter transmitting the report to the funding agency must include a detailed explanation of the basis for rendering that decision. If no external funding agency is involved, the explanation is appended to the investigation file.

When a final decision on the case has been reached, the respondent and the complainant are notified in writing. The

Vice President for Academic Affairs will determine a course of disciplinary action, keeping in mind the provisions of any applicable Collective Bargaining Agreement, and will determine whether law enforcement agencies, professional societies, licensing boards, editors of journals, collaborators of the respondent, or other relevant parties should be notified of the outcome of the case.

Other Considerations

Termination of institutional employment or resignation prior to completion of the inquiry or investigation process will not preclude or terminate the misconduct procedures. If a respondent resigns and refuses to participate in the process after resignation, the committee will use its best effort to reach a determination, noting in its report the respondent's failure to cooperate.

If there is no finding of misconduct (and the cognizant Federal or other funding agency concurs), the university will undertake reasonable efforts to restore the respondent's reputation, including such possibilities as follow-up publicity if allegations were previously publicized or expunging all reference to the allegation from the respondent's personnel file.

Regardless of the Committee of Investigation's determination, the institution shall undertake reasonable efforts to protect the reputation of a complainant who made allegations in good faith and others who cooperated with the inquiry or investigation in good faith. If at any point, the Vice President for Academic Affairs has reason to believe that the allegations are not made in good faith, s/he may immediately determine appropriate administrative action against the complainant.

All records associated with the inquiry and investigation shall be maintained in secured files for a period of at least three years. They are to be made available to appropriate officials of the sponsoring agency upon request.

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[1] Association of American Medical Colleges, Framework for Institutional Policies and Procedures to Deal with Misconduct in Research, Washington, DC (March 19899), p.1.
[2] Agreement Between the Board of Trustees of the California State University and the California Faculty Association, Unit 3 – Faculty, 1998-2001; and California State Employees Association, Units 2,5,7, and 9, 1999-2001.
[3] Association of American Medical Colleges, op. cit., p. 2.
[4] Ibid., p. 8.