



University Policy: Scholarly Misconduct Policy Procedures

Policy Category: Academic/Research Policies

Subject: Procedures for the Review of Allegations of Scholarly Misconduct

Office Responsible for Review of this Policy: Vice Provost for Research

Policy: Scholarly Misconduct Policy

PROCEDURES:

Preliminary Assessment of the Allegation

Upon receiving an allegation of scholarly misconduct, the VPR will immediately assess the allegation to determine whether it is specific so that potential evidence of scholarly misconduct may be identified, whether it is within the jurisdictional criteria of this policy, and whether the allegation falls within the definition of scholarly misconduct. An inquiry must be conducted when an order of any governmental agency to conduct such an inquiry is received or when these criteria are met.

The preliminary assessment period should be brief, preferably concluded within a week. In conducting the preliminary assessment, the VPR need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of scholarly misconduct may be identified. The VPR shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding.

In the case that the VPR has a conflict of interest related to a specific allegation of scholarly misconduct, the Provost will appoint another institutional administrative officer to serve as RIO for the preliminary assessment of the allegation and any subsequent procedural actions.

Preliminary Administrative Action

In cases where a specific allegation of scholarly misconduct is serious, conditions may warrant that an interim administrative action is implemented at the time of sequestration of research data or other records for the purposes of an inquiry or investigation. An interim administrative action may be appropriate in specific cases, based on actions by the respondent that could impede the inquiry or investigation. For example, when there is a credible likelihood that an investigator would modify, destroy or hide evidence, obstruct the inquiry or investigation, or retaliate against other parties in the misconduct proceedings, preliminary administrative actions would be appropriate, including but not limited to a temporary suspension or replacement as head of a project. The VPR, in consultation with other appropriate university officials, will take appropriate interim administrative action as required. An interim administrative action may be appropriate if the respondent refuses to participate in an inquiry or investigation. This action may remain in place until the completion of the inquiry or investigation.

Determination to Conduct an Inquiry

If the VPR determines that the allegation meets the criteria for an inquiry, he/she will initiate a scholarly misconduct inquiry.

Determination to Dismiss an Allegation

If the VPR determines that the allegation does not meet the criteria for an inquiry, the VPR will formally dismiss the allegation. The VPR is not required to notify the respondent of an allegation. Rather, the VPR will notify the complainant that the allegation does not warrant further action.

Conducting the Inquiry

Purpose of Inquiry

When an allegation of scholarly misconduct is assessed, and it is determined that the criteria for an inquiry are met, then the VPR initiates the inquiry process. An inquiry is conducted to determine if the alleged instance of scholarly misconduct warrants a full investigation, based on an initial review of the available evidence. The inquiry does not result in a final determination in the case.

Timeframe

An inquiry committee is convened within 30 days of the decision to conduct an inquiry. The inquiry, the resulting report and the decision whether to conduct a full investigation should be completed in 60 or fewer days, unless the VPR determines that circumstances clearly warrant a longer period. If the VPR approves an extension, then the inquiry record must include documentation of the reasons for exceeding the 60 day period.

Notifications and Sequestration of Research Records

Within 15 days of the decision to conduct an inquiry, the VPR will make a good faith effort to notify the respondent in writing of a scholarly misconduct allegation. This notification to the respondent includes:

- The details of the allegation of scholarly misconduct;
- The rights and responsibilities of the respondent;
- The role and responsibilities of the inquiry committee;
- The description of the inquiry process; and
- Copies of American University's *Policy and Procedures for the Review of Allegations of Scholarly Misconduct*.

The Dean of the respondent's academic unit is also notified in writing of the decision to conduct an inquiry.

On or before the date on which the respondent is notified, the VPR will take all reasonable and practical steps to obtain custody of all the research records needed to:

- Obtain relevant research records and other evidence needed to conduct the scholarly misconduct inquiry;
- Produce an inventory of the research records and other evidence; and,
- Sequester the research records and all other evidence in a secure location.

Research records resulting from funding awards to American University and conducted at American University are the property of American University. When research records are sequestered, this action is conducted in such a way as to minimize impact on an ongoing research project. The respondent will be provided by the ICO an inventory of all of the sequestered items, in a timely manner.

Selection of Inquiry Committee

The VPR appoints at least three full-time, tenured faculty members to serve on the inquiry committee. Potential members of the inquiry committee shall meet the following criteria:

- Each has the appropriate scientific, professional or disciplinary expertise to evaluate the evidence and issues presented with regard to the allegation, interview the principals and key witnesses, and conduct the inquiry; and
- Each has no personal, professional, or financial conflicts of interest that are real or apparent with either the complainant or the respondent, and they must remain unbiased.

The VPR notifies the respondent, in writing, of the proposed inquiry committee membership. The respondent is given the opportunity to object to any proposed member of the committee based on a specific conflict of interest. The respondent's objections to the potential committee member must be made in writing within seven (7) days of notification and explicitly state the potential conflict. The VPR makes the final decision regarding the

existence of a conflict of interest. If necessary, the VPR will propose a new member of the inquiry committee. Determination of a specific bias or conflict of interest may be based on whether prospective committee members or members of their immediate families:

- Have financial involvements with the respondent or complainant;
- Have publications with the respondent or complainant;
- Have research collaborations with the respondent or complainant;
- Have participated in mentoring with the respondent or complainant; or,
- Have a pre-existing (dual) relationship with the respondent or complainant.

Charge to the Inquiry Committee

Upon the convening of the inquiry committee, the VPR provides a charge, including:

- The purpose of the inquiry;
- The definition of scholarly misconduct;
- The schedule for the completion of the inquiry;
- The name of the respondent;
- The specific allegation(s) that will be reviewed; and,
- The responsibilities of the inquiry committee, include:
 - Selection of a chair of the committee;
 - Review of the evidence, including research records and documents;
 - Interviews of the complainant, the respondent and others as necessary; and,
 - Preparation of a final report

The Inquiry Process

The inquiry committee will:

- determine whether the allegation of scholarly misconduct warrants an investigation based on an initial review of the available evidence.
- identify specific issues that justify broadening the scope of the misconduct inquiry.
- not make a final determination based on the merits of the allegation.
- review evidence and documentation relevant to the allegation of scholarly misconduct. It may interview the complainant, respondent, and others as necessary and appropriate.
- summarize its findings and recommendations in a written report to the VPR. The inquiry, the final report and its recommendation should be completed within 60 days. Extensions may be authorized by the VPR.

The Inquiry Report

When the initial inquiry is complete, the committee prepares a final report summarizing its findings and recommendations. The inquiry committee final report must include:

- The names of all committee members;

- A summary of the committee charge, including the respondent's name and position and the allegation(s) of scholarly misconduct;
- A description of the inquiry process used;
- A description of the inventory of evidence reviewed;
- The rationale for the recommendations made by the committee for each allegation;
- Identification of any federal support associated with the allegation; and,
- Any comments on the draft by the respondent.

Notification to the Respondent and Opportunity to Comment on Inquiry Report

The VPR shall notify the respondent whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report. The respondent(s) may review the draft inquiry report and provide written comments to the contents of the draft report. Written comments must be submitted by the respondent within 15 days of receipt of the draft inquiry committee report. If the respondent submits comments, the comments will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The final report, including all appendices, is then submitted to the VPR.

Institutional Decision Regarding a Scholarly Misconduct Investigation

Upon submission of the final report of the inquiry report, the VPR reviews it to determine if the inquiry committee found support for the allegation of scholarly misconduct and if the committee concluded that further action is warranted. If the VPR agrees with a committee recommendation for a scholarly misconduct investigation, the VPR will convene a committee to conduct the formal investigation. If, however, the inquiry committee finds insufficient evidence to support the allegation of scholarly misconduct and it does not recommend a formal investigation, and the VPR agrees with the committee's findings, the VPR dismisses the allegation. The University will make all reasonable attempts, where warranted, to make whole the reputations of individuals when allegations of scholarly misconduct are made against them but are determined to be unfounded.

Notifications

The VPR notifies the respondent in writing of the findings of the inquiry committee and attaches a copy of the final inquiry committee report with all appendices. The VPR notifies the DPDF and the Dean of the respondent's academic unit of the results of the inquiry. The VPR will also notify the complainant of the results of the inquiry.

Conducting the Investigation

Purpose of Investigation

When an institutional decision is made that the criteria for a scholarly misconduct investigation have been met, the VPR initiates the investigation process. An investigation is

conducted to determine if scholarly misconduct has occurred, based on a preponderance of the evidence. The investigation is also conducted to determine the responsible parties and the scope and seriousness of the scholarly misconduct.

Timeframe

An investigation committee is convened within 30 days of the decision to conduct an investigation. The investigation, the final report and the findings for all allegations should be completed in 120 or fewer days. Extensions may be authorized by the VPR. If the VPR approves an extension, then the inquiry record must include documentation of the reasons for exceeding the 120 day period.

Notifications and Sequestration of Research Records

Within 15 days of the decision to conduct an investigation, the VPR notifies the respondent in writing of the decision to conduct a scholarly misconduct investigation. This notification to the respondent includes:

- The details of the allegation of scholarly misconduct;
- The rights and responsibilities of the respondent;
- The role and responsibilities of the investigation committee;
- The description of the investigation process; and
- A copy of American University's *Policy and Procedures for the Review of Allegations of Scholarly Misconduct*.

The DPDF and the Dean of the respondent's academic unit are also notified in writing of the decision to conduct an investigation. If required, the VPR notifies in writing the appropriate federal agencies of the decision to open a scholarly misconduct investigation within 30 days of the decision that an investigation is warranted. Written notification to the federal oversight agency includes a copy of the inquiry committee report and any other required materials.

On or before the date on which the respondent is notified, the VPR will take all reasonable and practical steps to obtain custody of any relevant research records and other evidence that was not sequestered as part of the inquiry process

Selection of Investigation Committee

The VPR appoints a least three full-time faculty members to serve on the investigation committee. Potential members of the investigation committee meet the following criteria:

- Each has the appropriate scientific, professional or disciplinary expertise to evaluate the evidence and issues presented with regard to the allegation, interview the respondent and complainant and conduct the investigation;

- Each has no personal, professional, or financial conflicts of interest that are real or apparent with either the complainant or the respondent, and they must remain unbiased.
- They did not serve on the inquiry committee.

If necessary, the VPR may appoint experts from outside American University to serve on the investigation committee. The VPR notifies the respondent, in writing, of the proposed investigation committee membership. The respondent is given the opportunity to object to any proposed member of the committee based on a specific conflict of interest. The respondent's objections to the potential committee member must be made in writing within seven (7) days of notification and explicitly state the potential conflict. If necessary, the VPR will propose a new member of the investigation committee. The VPR makes the final decision regarding the existence of a conflict of interest.

Charge to the Investigation Committee

Upon the convening of the investigation committee, the VPR provides a charge, including:

- The purpose of the investigation;
- The definition of scholarly misconduct and requirements for a finding of scholarly misconduct;
- The schedule for the completion of the investigation;
- The name of the respondent(s);
- The specific allegation(s) that will be reviewed;
- The responsibilities of the investigation committee, including:
 - Selection of a chair of the investigation committee;
 - Review of the evidence, including research records and documents;
 - Interviews of the complainant, the respondent and others as necessary;
 - A finding for each allegation, the parties responsible, and the scope and seriousness of the scholarly misconduct; and,
 - Preparation of a final report.

The Investigation Process

The investigation committee will:

- conduct a full examination of all evidence relevant to the investigation to determine by a preponderance of the evidence if scholarly misconduct has occurred.
- determine all responsible parties and the scope and seriousness of the scholarly misconduct.
- identify specific issues that justify broadening the scope of the misconduct investigation.

- interview the complainant, respondent, and all others who have been identified as having information relevant to the matter under investigation. All interviews are recorded or the notes are transcribed and then provided to the interviewee.
- produce a finding for each allegation of scholarly misconduct, based on a preponderance of the evidence reviewed and the definition of scholarly misconduct provided to the investigation committee.
- summarize its findings and recommendations in a written report to the VPR. The inquiry, the final report and its recommendations should be completed within 90 days. Extensions may be authorized by the VPR. If the VPR approves an extension, then the inquiry record must include documentation of the reasons for exceeding the 90 day period.

The Investigation Report

When the investigation is complete, the committee prepares a final report summarizing its findings and recommendations. The investigation committee final report must include:

- The names of all committee members;
- A summary of the committee charge, including the respondent's name and the allegation(s) of scholarly misconduct;
- A description of the investigation process used;
- A description of the inventory of evidence reviewed;
- The finding of the committee for each allegation, including the scope and seriousness of each finding of scholarly misconduct;
- Identification of all parties responsible for the scholarly misconduct;
- A summary of the facts and analysis supporting the conclusions of the committee;
- Identification of any federal support associated with the allegation;
- Identification of any publications that may require correction or retraction; and,
- A summary of the respondent's comments on the draft investigation committee report.

Review of Investigation Report

Upon the completion of the investigation report, the respondent may review it and respond with written comments to the contents of the draft report. Written comments must be submitted by the respondent to the VPR within 30 calendar days of receipt of the draft investigation committee report. The respondent may have supervised access to any evidence and documents used by the investigation committee to support their conclusions. The investigation committee may consider any written comments submitted by the respondent, and revise the draft report in response, during preparation of its final report. The written comments of the respondent, as well as all taped or transcribed interviews, are attached to the final investigation committee report. The final report, including all appendices, is then submitted to the VPR.

Institutional Decision

If the investigation committee concludes that scholarly misconduct has occurred, and the VPR concurs, the Provost, in consultation with the DPDF, the VPR, and the appropriate school/college Dean or the University Librarian, determines a disciplinary action in accordance with established American University procedures. The Provost determines and invokes any minor or major sanctions or disciplinary actions. Customarily, a summary of the disciplinary action decision will be provided to appropriate parties, including the Respondent, within ten (10) days. If the investigation committee concludes that scholarly misconduct has not occurred, and the VPR concurs, then the matter is closed. The University will make all reasonable attempts, where warranted, to make whole the reputations of individuals when allegations of scholarly misconduct are made against them but are determined to be unfounded. Based on the final written report of the investigation committee, and the circumstances of the case, appropriate sanctions may include:

Minor sanctions or disciplinary actions, including but not limited to:

- A letter of reprimand;
- A warning letter to a personnel file;
- Replacement as head of a project, grant, center or institute;
- Intensive monitoring of scholarly work for a specified period of time;
- Placement on probation status for a specified period of time; or
- Reassignment of duties or a salary reduction.

Major sanctions or disciplinary actions, including but not limited to:

- Non-renewal or termination of contract;
- Reduction of academic rank;
- Termination of University appointment; or
- For students, suspension or expulsion from the University.

Notifications

At the conclusion of the scholarly misconduct investigation, the respondent is notified in writing of the results, and provided a copy of the final committee report with all appendices. The notification will include a summary of any impending disciplinary actions against the respondent. The VPR notifies the Provost, the DPDF and the Dean(s) of the respondent's academic unit of the results of the investigation. When required, the VPR notifies federal oversight agencies in writing. The VPR will notify the complainant of the results of the investigation.

Report to Sponsor

If the case of scholarly misconduct involves a research project, that by regulation or terms of the contract, mandates reporting to the project sponsor, the sponsor will be notified in

writing of the investigation committee's findings, including a description of the institution's acceptance of the committee's findings, the final accepted institutional findings, and any completed or pending institutional actions or sanctions. The VPR will notify the project's research sponsors and the appropriate federal office addressing research integrity (e.g., the Office of Research Integrity or the Inspector General), in compliance with applicable laws, regulations and agreements. For federally sponsored research, notification is required.

Notification will consist of:

- Prompt information that an inquiry recommends a formal investigation;
- Prompt information regarding any administrative actions;
- Regular updates during a formal investigation; and,
- Prompt notification of any of the following conditions:
 - An escalation of the seriousness of the allegations;
 - Involvement of health and environmental hazards;
 - Threats to the sponsor's resources, reputation, or interests;
 - Threats to the well-being of human or animal research subjects;
 - A compelling need to notify the scientific community or the public; or,
 - Evidence of criminal activity.

Appeal of Institutional Decision

Upon notification of a positive finding of scholarly misconduct, the respondent may appeal the decision to the President of the University in writing within thirty (30) days. An appeal becomes part of the written record of the scholarly misconduct investigation. The appeal must provide a detailed rationale for the basis of the appeal. The basis for an appeal is strictly limited to documented procedural errors or a detailed description of how evidence in the record does not support the institutional decision. The President may review the appeal or delegate the review to a University official not involved in the investigation. If the President agrees with the Provost's decision, the decision is final. The Provost will then initiate the approved sanction. If the President does not agree with the Provost's decision, the President may decide that another course of action is appropriate.

Record Retention

All documents and research records related to allegations of scholarly misconduct are retained and secured by the DPDF for a period of seven years from the date of the receipt of the allegation. All documents and records related to scholarly misconduct inquiries and investigations are retained and secured for a period of seven years from the date of the completion of the scholarly misconduct proceedings.

References

American University acknowledges that these policy and procedure statements were modeled on and reference content from the federal Office for Research Integrity's *Sample*

Policy and Procedures for Responding to Allegations of Scholarly Misconduct and the institutional policies and procedures at Northwestern University, the University of Pennsylvania, The University of Maryland - Baltimore County and Indiana University.