

POLICIES AND PROCEDURES FOR THE HANDLING OF ALLEGATIONS OF
SCIENTIFIC FRAUD AND SERIOUS MISCONDUCT
California Polytechnic State University
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I. INTRODUCTION

Fraud in the conduct of research undermines the scientific enterprise and erodes the public trust in the university community to conduct research and communicate results using the highest standards and ethical practices. Cal Poly is responsible for promoting practices that prevent misconduct, and for developing policies and procedures to handle allegations of fraud and/or serious misconduct. All members of the academic community - students, staff, faculty, and administrators - share the responsibility to develop and maintain practices and standards that will ensure the ethical conduct of research, and procedures for the detection and appropriate handling of violations of these practices and standards. At the same time, the openness and creativity vital to the research enterprise must be protected.

The policies and procedures outlined below apply to faculty, staff, and students. They are not intended to address all academic issues of an ethical nature. For example, the conduct of students in examinations, discrimination and affirmative action issues, and other areas are covered by other institutional policies. Disciplinary actions, if any, also may involve other existing policies and procedures. For example, faculty and staff are covered by individual collective bargaining agreements and state law, and students are subject to the Campus Student Disciplinary Process.

II. DEFINITION OF SCIENTIFIC FRAUD AND SERIOUS MISCONDUCT

Scientific fraud can be defined as an act of deception whereby one's work or the work of others is misrepresented. Fraud is distinguished from honest error and from ambiguities of interpretation that are inherent in the scientific process. Misconduct can be defined as deviation from accepted ethical practices for proposing, conducting and reporting research. Both fraud and serious misconduct involve significant breaches of research integrity that may take numerous forms such as, but not limited to, those outlined below:

A. Falsification of Data

This ranges from outright fabrication of data to deceptive selective reporting of findings and omission of conflicting data.

B. Improprieties of Authorship

Plagiarism and other improper assignment of credit such as excluding others, or claiming the work of another as one's own; presentation of the same material as original in more than one publication; including individuals as authors who have not made a definite contribution to the work published and submission of multi-authored publications without the concurrence of all authors.

C. Misappropriation of the Ideas of Others

Improper use of information or influence gained by privileged access, such as service on peer review panels, editorial boards and policy boards of research funding organizations.

D. Violation of Generally Accepted Research Practices

Improper manipulation of experiments to obtain biased results, improper statistical or analytical manipulations.

E. Violation of Federal, State, or Institutional Rules Governing Research

Including but not limited to those regarding use of funds, care of animals, human subjects, investigational drugs, DNA, new devices, and radioactive, biological, or chemical materials.

F. Inappropriate Behavior in Relation to Misconduct

Includes inappropriate accusation of misconduct; failure to report known or suspected misconduct; withholding or destruction of information relevant to a claim of misconduct; and retaliation against persons involved in the allegation or investigation of misconduct.

III. PROCESS FOR HANDLING ALLEGATIONS OF FRAUD/SERIOUS MISCONDUCT

Cal Poly will pursue every complaint about conduct that raises legitimate suspicion of scientific fraud or serious misconduct. In the inquiry and investigation that may follow, Cal Poly will focus on the substance of the issues and be guided by the following imperatives:

- o The process pursued to resolve allegations of fraud must not damage the scientific process itself.
- o Cal Poly shall provide vigorous leadership in the pursuit and resolution of all charges.

- o All parties shall be treated with justice and fairness and with sensitivity to the reputations and vulnerabilities of all parties.
- o Procedures shall preserve the highest attainable degree of confidentiality authorized by law and compatible with an effective and efficient response.
- o The integrity of the process must be maintained by painstaking avoidance of real or apparent conflict of interest.
- o The procedures shall be as expeditious as possible.
- o Pertinent facts at each stage of the response shall be documented.
- o After resolving allegations of fraud, the institution shall recognize and discharge its responsibility, internally, to inform appropriate, involved individuals; and externally, to correct the public record, if necessary; to inform the sponsors of the research; to correct/withdraw misinformation in the scientific literatures; and to inform the scientific community insofar as necessary to correct erroneous information that may have been disseminated. In all cases, the intent will be to nullify the possible harmful effects of the fraud or misconduct. Notifications to these parties will not include information on the sanctions imposed and will be approved by the President, after review by University legal counsel.

A. Report of Allegations

All allegations should be reported to the Dean for Research and Graduate Programs. If he/she has a conflict of interest, the allegations should be referred to the Vice President for Academic Affairs. Accusations against students will also be reported to the Vice President for Student Affairs.

The Dean will counsel the complainant as to the policies and procedures to be used. All allegations will be forwarded by the Dean to a committee of inquiry, including allegations made by a complainant who chooses not to make a formal allegation.

If the respondent leaves the institution before the case is resolved, the institution may still pursue the allegation to its conclusion.

B. Inquiry

1. The first step of the review process is an inquiry, which has as its purpose

fact-finding in an expeditious manner, to determine if an allegation is deserving of further formal investigation, or, if formal investigation is not warranted, to make recommendations concerning the disposition of the case.

2. The committee of inquiry will be an ad hoc committee named by the Dean of Research and Graduate Programs. It will consist of three tenured faculty members with significant research experience, one and only one of whom will be from the same college, but not the same department as the respondent; the Chair of the Academic Senate Research Committee; the Dean for Research and Graduate Programs; and the Director of Foundation Sponsored Programs (if the research involved in the allegation is externally-sponsored). None of the committee members shall have a conflict of interest in the case. The first order of business for the committee of inquiry will be to determine if an inquiry concerning the allegations should be pursued. If the committee decides not to pursue the allegations, a written explanation of the basis for this decision shall be sent to the complainant.
3. The Dean for Research and Graduate Programs is responsible for notifying the respondent of the charges and of the procedures that will be used to examine the charges. The respondent will be informed of the proposed membership of the committee of inquiry for the purpose of identifying in advance any real or potential conflict of interest.
4. When the complainant seeks anonymity, the committee of inquiry shall operate in such a way as to maintain that anonymity to the degree compatible with accomplishing the fact-finding purpose of the inquiry. Such anonymity cannot, however, be assured. Further, anonymity of the complainant is neither desirable nor appropriate where the testimony or witness of the complainant is important to the substantiation of the allegations.
5. Information, expert opinions, records, and other pertinent data may be requested by the committee. The respondent and all involved individuals are expected to cooperate with the committee of inquiry by supplying such requested documents and information. Uncooperative behavior may result in immediate implementation of a formal investigation or other institutional sanctions.
6. Timely access to copies of all documents reviewed by the committee will be assured to all parties. All material will be considered confidential and shared only with those with a need to know. The Dean for Research and Graduate Programs and the members of the committee of inquiry are

responsible for the security of relevant documents. Copies of all documents and related communications are to be securely maintained in the Office of the Dean for Research and Graduate Programs.

7. All parties have the right to the assistance of private legal counsel; however, as the inquiry is informal and intended to be expeditious, principal parties are generally expected to speak for themselves.
8. All parties to the case, including the members of the inquiry committee, will have the opportunity to present evidence and to call and question all witnesses.
9. The committee of inquiry shall arrive at a judgment as expeditiously as possible. The inquiry phase should generally be completed, and a written report filed, within 60 days of written notification to the respondent that a committee of inquiry has been convened. If this deadline cannot be met, a request for extension and a report of reasons and progress to date, together with anticipated time frame, should be filed with the Dean for Research and Graduate Programs all involved individuals should be informed. The Dean will determine whether an extension is warranted or whether the inquiry should be terminated.
10. During the inquiry phase, interim administrative actions will be taken as appropriate to protect Federal and/or other sponsors' funds and to assure that the purposes of the financial award are met. When PHS funding is involved, the Office of Research Integrity (ORI) of the Department of Health and Human Services will be notified within 24 hours of obtaining any reasonable indication of possible criminal violations. In addition, ORI will be notified immediately if, at any stage of the inquiry or investigation, it is determined that any of the following conditions exist:
 - i) there is an immediate health hazard involved;
 - ii) there is an immediate need to protect Federal funds or equipment;
 - iii) there is an immediate need to protect the interests 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; and
 - iv) it is probable that the alleged incident is going to be reported publicly.
11. The written report, stating the evidence reviewed, summarizing relevant interviews, and including the conclusions of the inquiry, will be conveyed in writing to the President or his designee, who will be responsible for

communicating the findings to the respondent. The respondent will receive a copy of the written report.

12. The committee of inquiry may conclude one of the following:
 - i) there is insufficient evidence to support the allegations. The case may then be closed.
 - ii) there is evidence of misconduct but major sanctions are not required to address the misconduct. The committee may then suggest a lesser sanction such as a letter of reprimand or letters to professional organizations and granting agencies detailing the findings of the committee of inquiry. In such a case, the committee of inquiry or the President may feel that a formal investigation should be completed before a sanction is imposed. If so, the committee of inquiry shall recommend a slate of candidates for a committee to conduct such an investigation in accordance with III.C. It should be emphasized that the committee of investigation is to consider only cases in which the possible sanctions are less than suspension without pay, dismissal, or demotion.
 - iii) there is clear evidence of misconduct that requires consideration of major sanctions--suspension without pay, demotion, or dismissal. In such a case, the President shall proceed under existing University policies and procedures governing disciplinary actions against faculty, staff or students.
13. If the inquiry outcome does not find evidence of misconduct, all involved parties shall be so notified by the Dean for Research and Graduate Programs and diligent efforts will be made to ensure that respondents are cleared of unsupported allegations. If the committee finds the allegations to be unjust, unfounded, and malicious, sanctions may be recommended against the complainant. If the allegations, founded or unfounded, are deemed to have been made in good faith, diligent efforts will be made to protect the position(s) and reputation(s) of the person(s) who made the allegations.
14. If the outcome of the inquiry indicates a need for formal investigation, the external funding source, if any, also shall be notified, as required (e.g. under a funding agreement), that an investigation is being undertaken.
15. Records of the inquiry are confidential and are to be passed on to a committee of investigation if formal review is initiated. In all cases, the records must be kept secure. If no evidence of misconduct is found, records should be destroyed three years after completion of an inquiry.

16. If during the course of an inquiry it is decided to terminate the inquiry for any reason, without completing all of the requirements in Section III B of this policy, and PHS funding is involved, a report of the planned termination, including a description of the reasons for the termination, shall be made to ORI.

C. Investigation

1. The Dean for Research and Graduate Programs shall, within 30 days after a committee of inquiry has reported the need for an investigation, appoint an investigating committee from the slate provided by the inquiry committee. If PHS funding is involved, ORI will be informed of the planned investigation on or before the date the investigation begins. The investigating committee shall be comprised of senior faculty who are without conflict of interest, hold no appointment in the departments of either the complainant or the respondent, and have appropriate expertise for evaluating the information relevant to the case.
2. The purpose of the investigating committee is to explore further the allegation, and determine whether fraud or serious misconduct has been committed and the extent of the malfeasance. As in the inquiry phase, the committee may request documents, receive evidence, and call and hear witnesses. Additional hearings may be held and the committee may request the involvement of outside experts. The investigation must be sufficiently thorough to permit the committee to reach a firm decision about the validity of the allegation(s) and the scope of the wrongdoing, and to ensure that further investigation would not alter the conclusion. In the course of an investigation, additional information may emerge that may justify broadening the scope of the investigation beyond the initial allegations. Should this occur, the respondent is to be informed in writing of significant new directions in the investigation. In addition to making a judgment on the veracity of the charges, the investigating committee should recommend to the Dean for Research and Graduate Programs appropriate sanctions, if warranted.
3. Since the institution is responsible for protecting the health and safety of research subjects, students and staff, interim administrative action prior to conclusion of either the inquiry or the investigation may be indicated. Such action, ranging from slight restrictions to complete suspension of the research and notification of external sponsors (or ORI if PHS funding is involved) may be initiated by the Dean for Research and Graduate Programs. The nature of and grounds for such actions are detailed in Section III B.10 of this policy. Such actions will be reviewed by University legal counsel and approved by the President.

4. All parties in the investigation are expected to cooperate in a timely manner by producing any additional data requested for the investigation. Copies of all materials secured by the committee shall be provided to the respondent and other concerned parties as judged appropriate by the committee.
5. The respondent shall have an opportunity to address the charges and evidence in detail. The respondent may be accompanied by and confer with legal counsel at hearings, but is expected to speak for him/herself.
6. Hearings are confidential and may be declared closed by request of any of the principals. Written notification of hearing dates and copies of all relevant documents will be provided by the Office of the Dean for Research and Graduate Programs in advance of scheduled meetings. A tape recording of the proceedings will be made, and provided upon request and made available to involved parties.
7. After all evidence has been received and hearings completed, the investigating committee shall meet in closed sessions to deliberate and prepare its findings and recommendations.
8. All significant developments during the investigation as well as the findings and recommendations of the committee will be reported by the Dean for Research and Graduate Programs to the research sponsor or to ORI if PHS support is involved. In the latter case, ORI will be advised promptly of any developments that disclose facts that may affect current or potential DHHS funding for individual(s) or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest. As in the inquiry stage, ORI will be notified within 24 hours of obtaining any reasonable indication of possible criminal violations.
9. Every effort should be made to complete the investigation within 120 days; however, it is acknowledged that in some cases this time period may be difficult to meet. In such cases, the investigating committee should compile a progress report, identify reasons for the delay, and request an extension from the Dean for Research and Graduate Programs. The Dean will determine whether the extension is warranted or whether the investigation should be terminated. In the case of PHS-supported research, the Dean will file with ORI a request for an extension. The request will include an explanation for the delay, progress report to date, an outline of what remains to be done to complete the investigation, and an estimated date of completion.

10. Upon completion of the investigation, the committee will submit to the Dean for Research and Graduate Programs a full report that details the committee's findings and recommendations. This report should also be sent to the respondent by the Dean. The respondent may comment in writing on the report. When the respondent is notified of the committee's findings and recommendations regarding application of sanctions, the respondent should also be informed of the appeals process, if appropriate.
11. In addition to its report, the Committee will forward to the Dean for Research and Graduate Programs all relevant documentation (written, taped interviews, etc.) that was used by the Committee to substantiate its findings. This documentation will be maintained by the Dean and made available to the Director of ORI, on request, if the research is PHS-supported.
12. The Dean for Research and Graduate Programs will forward the committee's findings and recommendations regarding sanctions, including his/her concurrence or disagreement with these, to the President and the Vice President for Academic Affairs. The ultimate decision regarding sanctions to be imposed will be made by the President. If the committee finds that a member of the faculty or staff is guilty of fraud or misconduct, or if its findings are inconclusive, a copy of the report will be included in the official personnel file of the employee.
13. If during the course of an investigation it is decided to terminate the investigation for any reason, without completing all of the requirements in Section III C of this policy, and PHS funding is involved, a report of the planned termination, including a description of the reasons for the termination, shall be made to ORI.

D. Resolution

1. **Absence of Fraud or Serious Misconduct.** All research sponsors and others initially informed of the investigation should be informed in writing that allegations of fraud were not supported. If the allegations are deemed to have been maliciously motivated, the complainant may be subject to appropriate disciplinary proceedings under existing University policies. If the allegations, however incorrect, are deemed to have been made in good faith, no disciplinary measures are indicated and efforts must be made to prevent reprisals. In publicizing the finding of no fraud, the institution should be guided by whether public announcements will be harmful or beneficial in reversing any harm that may have been done to the reputations of involved parties. Usually, such decisions should rest with

the person who was accused.

2. Presence of Fraud or Serious Misconduct. The Dean for Research and Graduate Programs is responsible for notifying all government agencies, sponsors, or other entities initially informed of the investigation, of its outcome, namely the finding of fraud or serious misconduct. In the case of PHS-supported research, the final report of the investigating committee will be submitted to ORI within the stipulated time period (Section III B.9). The report will include a description of the policies and procedures under which the investigation was conducted; how and from whom relevant information was obtained; the findings, and the basis for them, as well as the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct; and a description of any sanctions taken by the institution. The President will be responsible for determining and imposing sanctions as appropriate. The sanctions imposed shall be appropriate to the seriousness of the infraction, including, but not limited to, the following:
 - a. Formal notification of involved parties, such as:
 - o sponsoring agencies, funding sources;
 - o co-authors, co-investigators, collaborators;
 - o editors of journals in which fraudulent research was published;
 - o state professional licensing boards;
 - o editors of journals or other publications;
 - o other institutions, sponsoring agencies, and funding sources with which the individual has been affiliated;
 - o professional societies to which the individual belongs.
 - b. Institutional sanctions, including:
 - o removal from research project(s);
 - o special monitoring of future work;
 - o letter of reprimand;
 - o probation for a specified period with conditions specified;
 - o suspension of rights and responsibilities for a specified period;
 - c. Disciplinary actions, including:
 - o suspension with or without pay;
 - o demotion;
 - o termination of employment.

3. Appeal. The right to appeal the decision of the investigating committee and/or the sanction is provided to affected individuals under existing University policies and procedures and collective bargaining agreements. Grounds for appeal include, but are not limited to, new previously unconsidered evidence, sanctions not in keeping with the findings, conflict of interest not previously known among those involved in the investigation, and other lapses in due process.

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