

*The Provost's Council on Research reviewed and approved the proposed new policy, Procedures Regarding Misconduct in Research for Non-faculty Members of the Research Community, on May 18, 2004. This policy is similar to the faculty policy, "Procedures Regarding Misconduct in Research", (Almanac, supplement, May 6, 2003) however it closes the gap in Penn policies by providing an institutional policy to deal with alleged cases of research misconduct where the respondent is a student, staff member, or postdoctoral fellow. It also attempts to integrate its investigation with existing established misconduct processes, and to respect the prerogatives of existing administrative entities to determine institutional sanctions. These procedures become effective immediately.*

*—Perry Molinoff, Vice Provost for Research*

## **Procedures Regarding Misconduct in Research for Nonfaculty members of the Research Community**

### **Introduction**

The University relies on all members of its research community to establish and maintain the highest standards of ethical practice in academic work, including research. Misconduct in research is prohibited and represents a serious breach of both the rules of the University and the customs of scholarly communities.

The following procedures are applicable to nonfaculty members of the University of Pennsylvania research community including students, postdoctoral fellows, and staff.

### **Research Misconduct Defined**

Research misconduct is defined as fabrication, falsification, plagiarism, or other serious deviation from accepted practices in proposing, performing, or reviewing research, or in reporting research results.

- Fabrication is making up data or results and recording or reporting them.
- 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.
- Plagiarism is the appropriation of another person's ideas, processes, or results, or works without giving appropriate credit.
- Serious deviation from accepted practices includes but is not limited to stealing, destroying, or damaging the research property of others with the intent to alter the research record; and directing or encouraging others to engage in fabrication, falsification or plagiarism. As defined here, it is limited to activity related to the proposing, performing, or reviewing of research, or in the reporting of research results and does not include misconduct that occurs in the research setting but that does not affect the integrity of the research record, such as misallocation of funds, sexual harassment, and discrimination, which are covered by other University policies.

The research record is the record of data or results that embody the facts resulting from scientific inquiry, and includes, but is not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.

Some forms of misconduct, such as failure to adhere to requirements for the protection of human subjects or to ensure the welfare of laboratory animals, are governed by specific federal regulations and are subject to the oversight of established University committees. However, violations involving failure to meet these requirements may also be covered under this policy or possibly by other University policies when so determined by the responsible committees or institutional officials.

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

### **Findings of Research Misconduct**

A finding of research misconduct requires that:

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

### **Jurisdiction and Applicable Process**

There are a number of University policies and procedures for responding to allegations of misconduct by students, postdoctoral fellows, or staff. This policy is intended to be invoked only in instances where research misconduct (i.e. activity related to the proposing, performing, or reviewing of research, or in the reporting of research results and which therefore may have an impact on the integrity of the research record) is

involved. Questions of jurisdiction and the applicability of the appropriate University procedure will be decided by the responsible administrative entity (such as the Office for Student Conduct, Office for Postdoctoral Programs, or the Office of Human Resources), in consultation with the Vice Provost for Research. Allegations of misconduct not involving the research process or the integrity of the research record will be resolved by the disciplinary process ordinarily applicable.

### **1. Inquiry**

1.1 Allegations of research misconduct should be directed in the first instance to the Vice Provost for Research who, along with the responsible administrative entity, will determine jurisdiction and which process is applicable to resolve the allegation. If the Vice Provost determines that this process is properly invoked, the Vice Provost will forward the complaint—which must be in writing—to the Dean of the School where the research is being performed.

1.2 Upon receipt of a properly documented complaint, the Dean will inform the respondent of the nature of the charges, and will provide the respondent with a copy of these procedures. The Dean will also take steps to secure relevant documents, data and other materials. The Dean will appoint one or more unbiased, impartial individuals with appropriate expertise who will conduct a preliminary inquiry to determine whether a full investigation is warranted.

1.3 The inquiry committee will gather information and determine whether there is sufficient, credible basis to warrant a formal investigation. The committee shall offer the respondent an opportunity to provide them with relevant information regarding the allegations. The committee will submit a written report of its assessment to the Dean and the respondent, and to the complainant where appropriate. The report should state what evidence was reviewed, summarize relevant interviews, and include the committee's recommendation. This report will ordinarily be submitted within 30 calendar days of receipt of the written complaint by the Dean.

1.4 If the report of the inquiry committee determines that a formal investigation is not warranted, the Dean may (i) drop the matter, or (ii) not initiate a formal investigation, but take such other action as the circumstances warrant, or (iii), in extraordinary circumstances, nonetheless initiate a formal investigation. The Dean will inform the concerned parties of the decision.

1.5 If the inquiry committee determines that a formal investigation is warranted, the Dean will initiate a formal investigation as provided in Section 2. The Provost (Vice Provost/designee) will inform the appropriate government agency or source funding the research, in writing, that a formal investigation has been initiated and will identify the respondent to the agency or source (1).

### **2. Formal Investigation**

2.1 To initiate a formal investigation, the Dean will appoint a formal investigation committee of not less than two disinterested individuals with sufficient expertise, one or more of whom may have served on the preliminary inquiry committee.

2.2 Investigation. The formal investigation committee will be provided with copies of the complaint, the report of the initial inquiry and any other materials acquired during the preliminary inquiry. The formal investigation committee will undertake a thorough examination of the allegations, including, without limitation, a review of relevant research data and proposals, publications, correspondence, and records of communication in any form. Experts within or outside the University may be consulted. The Committee shall have authority to investigate, pursue and document any related research misconduct by the respondent, even

if such misconduct was not covered by the initial complaint. Whenever possible, interviews will be conducted with the complainant, as well as with others having information regarding the allegations. The Committee must allow the respondent an opportunity to be interviewed at this formal investigation stage. When being interviewed by the committee the respondent and the complainant may each be accompanied by an adviser, who may be a lawyer but who may not participate directly in the proceedings except when and as requested to do so by the committee.

**2.3 Reporting the findings.** Following its investigation, the formal investigation committee will prepare and provide a written report of its findings to the respondent, to the Dean, to the Provost, and, if appropriate, to the complainant. The report will describe the allegations investigated, how and from whom information was obtained, the findings and basis of the findings, and will include texts or summaries of the interviews conducted by the committee. The report will conclude with a clear statement regarding which charges have been considered and what its findings are with respect to each charge the committee considered. If the committee finds that a violation of University policy in addition to or other than research misconduct might have been committed, a description of the possible violation will be included.

The committee will indicate whether each charge considered during the course of its proceedings is unsubstantiated or substantiated by a preponderance of evidence. If the matter involves a respondent who would be subject to University sanctions for misconduct only if the evidence met a clear and convincing standard, the Committee will make an additional determination as to whether that standard has also been met (2).

The final report will ordinarily be submitted within 90 days of the appointment of the formal investigation committee. The respondent will be permitted to make a written reply to the Dean with a copy to the Provost, and Vice Provost for Research, within 15 calendar days of submission of the report. The Dean may ask the committee to respond in writing to any replies from the respondent. The Dean may also ask the complainant to respond to the report if deemed appropriate. All such responses and replies will be incorporated as appendices to the report of the formal investigation committee.

### **3. Disposition of Final Report and Findings**

3.1 The Dean will consider the final report and replies. Upon acceptance of the report by the Dean, the Provost (Vice Provost/designee) will submit a copy of the report containing the outcome of the investigation to the appropriate government agency or source funding the research, if such action is required by regulation or otherwise appropriate. The entire formal investigation process should be completed within 120 calendar days of its initiation, unless documented circumstances warrant a delay.

3.2 If the final report of the formal investigation committee finds the charges of research misconduct against a respondent not to be substantiated, the research misconduct proceeding is terminated and the concerned parties will be informed. A finding that a charge of research misconduct has not been substantiated shall not preclude the University from taking other appropriate action against the respondent if the respondent's behavior or actions violate another University policy or rule.

3.3 If the report of the formal investigation committee finds the charges of research misconduct against a respondent to be substantiated, the matter will then be referred to the responsible administrative entity within the University to determine the appropriate University sanctions, if any, to be imposed for the misconduct (3).

### **4. Other Actions and Procedures**

4.1 The Dean in consultation with the Provost will, during the course of the inquiry or formal investigation, take administrative action, as appropriate to protect the welfare of animal or human subjects.

4.2 At any time during the inquiry or formal investigation, the Dean and Provost will immediately notify the relevant funding agency(ies) if public health or safety is at risk; if agency resources or interests are threatened; if research activities should be suspended; if there is reasonable indication of possible violations of civil or criminal law; if Federal action

is required to protect the interests of those involved in the investigation; if the University believes the inquiry or formal investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved; or if the research community or public should be informed.

4.3 If the final report of the formal investigation committee finds charges have been substantiated, the Provost or Dean will take appropriate steps to correct any misrepresentations resulting from the misconduct. If, at any time during the inquiry or investigatory stages, the respondent admits to the alleged misconduct, the Dean will take the necessary steps to complete the inquiry in order to correct the scientific record. If misrepresented results have been submitted for publication, already published, or otherwise disseminated into the public domain, appropriate journals and other sponsors will be notified. In addition, collaborators, and other affected individuals, organizations, institutions, and sponsors will be informed.

4.4 Complete records of all relevant documentation on cases treated under the provisions of this policy will be preserved by the offices of the Dean and the Provost in a manner consistent with the Protocols for the University Archives and Record Center. In cases adjudicated under Section 3, records will be preserved for a minimum of ten years following completion of all proceedings. Records of cases which are dropped will be preserved for at least three years following the initial inquiry. When students are involved in these procedures, the confidentiality provisions applicable to educational records will govern the disclosure of the records.

4.5 The University may act under these procedures irrespective of possible civil or criminal claims arising out of the same or other events. The Dean, in consultation with the Provost and the general counsel, will determine whether the University will proceed against a respondent who also faces related charges in a civil or criminal tribunal. If the University defers proceedings, it may subsequently proceed irrespective of the time provisions set forth in these procedures.

### **Endnotes**

1. The decision to initiate a formal investigation must be reported to the Office of Research Integrity, Department of Health and Human Services, if the research has been supported by a grant from DHHS, according to DHHS regulations.

2. There is a discrepancy between University regulations, which use the standard of "clear and convincing" evidence, and regulations of the Office of Research Integrity, which use the lower standard of "preponderance of evidence". Therefore, if there is a finding of fault, the inquiry must explicitly state whether the higher University standard is met, to inform the University administrative entity which is responsible for determining possible sanctions.

3. The intent of this policy is that the appropriate administrative entity will take responsibility for determining and implementing sanctions.

For instance, if the respondent is an undergraduate student any disciplinary sanctions will be determined by the Office of Student Conduct in accordance with its amended Charter procedures dealing with research misconduct findings. In order to determine sanctions, the findings and accompanying documents should be forwarded to the Office of Student Conduct. Upon review of all findings, including all submissions by the respondent etc., the Office of Student Conduct will propose appropriate sanctions to the respondent. The respondent would then have an opportunity to accept, reject or propose alternative sanctions. If either the original sanction or an alternative sanction is accepted and agreed upon, the OSC then has primary responsibility for implementing and monitoring sanctions. If the respondent rejects the sanction, the respondent may appeal the nature and severity of the sanction only to the Disciplinary Appellate Officer within the Student Disciplinary System. If the decision of the appellate officer is to uphold the proposed sanction, the sanction will be imposed, with no further levels of review.

Likewise, if the respondent is a graduate student, postdoctoral fellow, or staff member, the responsible administrative entity would consider the information and determine sanctions.