

JOHNS HOPKINS UNIVERSITY

WHITING SCHOOL OF ENGINEERING ZANVYL KRIEGER SCHOOL OF ARTS AND SCIENCES

PROCEDURES FOR DEALING WITH ISSUES OF RESEARCH MISCONDUCT

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1. Introduction

The Whiting School of Engineering and the Zanvyl Krieger School of Arts and Sciences are dedicated to truth in pursuit of knowledge through research, to the transmission of knowledge through teaching, and to the application of technology to societal problems. Mutual respect and a dedication to these shared values by all faculty, students, and staff are essential to the functioning of the Whiting School of Engineering and the Krieger School of Arts and Sciences. Hence, when any member of the community disregards the accepted norms of scientific inquiry, the entire community is diminished.

Misconduct may be intentional or may be inadvertent. In either case, public trust and the pursuit of scientific truth are endangered, and the Whiting School of Engineering and the Krieger School of Arts and Sciences have an obligation to act. The procedures outlined here were developed to provide a fair and orderly means of handling allegations or suspicions of research misconduct. These procedures were designed to comply with applicable federal regulations for research institutions. This policy applies to all faculty, students, and staff of the Whiting School of Engineering and the Krieger School of Arts and Sciences insofar as they are engaged in any manner of scientific inquiry.

Federal regulations state: "*Research misconduct is defined as fabrication, falsification, or plagiarism 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, results, or words without giving appropriate credit"* (from the Office of Science and Technology Policy).

The review process for determining whether research misconduct has occurred and providing corrective actions consists of three phases: inquiry, investigation, and adjudication. The goal of these procedures is to ensure fair treatment for any person alleged to have committed an act of research misconduct. Therefore, every inquiry and subsequent investigation will be based on a presumption of innocence until proven otherwise. It is not intended that the proceedings be adversarial. Rather, all phases of the procedure should be conducted in the spirit of peer review. The University and the Whiting School of Engineering and the Krieger School of Arts and Sciences will not have legal counsel present during meetings of inquiring, investigative, or adjudicative bodies. Likewise, no accused person and no accuser may appear before these internal review panels with legal counsel. The Homewood Schools firmly believe that duly constituted boards and committees of the faculty should be free to meet directly with a member of the academic community on the business of the Schools, without counsel present. However, any person accused of research misconduct does have the right to consult with legal counsel before and after institutional proceedings.

2. Reporting

Any faculty member, student, or staff employee of the Whiting School of Engineering and the Krieger School of Arts and Sciences who suspects that research misconduct has occurred has an obligation to report that suspicion to the department chair or center director, or to the Dean of the division. If the report is made to the department chair or center director, he or she must report the allegation to the Dean or the Dean's designee in a timely fashion, regardless of his or her assessment concerning whether the activity in question constitutes possible misconduct. The department chair or center director may make a recommendation to the Dean or the Dean's designee. As noted below, the Dean may request that the department chair or center director conduct an inquiry into the matter. Since a charge of misconduct, especially if unjustified, may seriously damage an individual's career, any issue of misconduct should be handled as confidentially as possible. As few people as possible should be involved at any stage of the procedure. There must be no recriminations for a person bringing an allegation in good faith, and persons who have acted in good faith will be protected from retaliation. The person reporting the suspected research misconduct cannot be guaranteed anonymity since this person may be an important witness or source of information.

3. Inquiry

The purpose of the inquiry is to distinguish promptly substantive accusations of misconduct from accusations that are clearly erroneous, frivolous, or malicious. The question is: Do the initial allegations or suspicions warrant investigation? The initial inquiry is conducted by the Dean for Research or a Dean's designee(s), with attention to assuring that no one has a conflict of interest in the matter, and that all have the necessary and appropriate expertise to evaluate the available evidence. The respective Dean of the division may designate the reporting department chair or center director to review the matter personally or with the help of a departmental ad hoc committee. The Dean or the Dean for Research also may initiate an inquiry based on information that has come to his or her attention from any source. The purpose of the inquiry is to identify serious accusations and to put quickly to rest frivolous, patently unjustified, or mistaken allegations.

At the initiation of an inquiry, the Dean or Dean of Research shall collect the research records and evidence relating to the substance of the allegations, inventory it and keep it secured for the duration of these proceedings and thereafter if required by any applicable law or regulation or to respond to any further proceedings. To the extent any such records or evidence is needed to continue ongoing research, copies of the records and other evidence will be used in these proceedings to the extent the copies are satisfactory for the purpose.

In those cases where the suspicions or allegations are not found to be frivolous, unjustified, or mistaken, the person(s) accused of research misconduct must be given an opportunity to comment on the allegations and the findings of the inquiry before the Dean decides to initiate a formal investigation of the matter. The Dean will determine whether and to what extent it is necessary or appropriate to involve the accused person in the inquiry at an earlier stage, including at the time records and other evidence are collected.

Every effort will be made to complete the inquiry within 60 calendar days of its initiation. If the inquiry requires longer than 60 days to complete, the record of the inquiry will document the reasons for exceeding 60 days.

When the inquiry is completed, a written report of the matter will be submitted to the Dean. The written report will state what evidence was reviewed, summarize relevant interviews (if interviews were conducted), and include sufficient details to support the conclusions of the inquiry. The accused person(s) will be given a copy of the draft report and will have fifteen days to submit comments; the final report shall attach the comments to the report. If the inquiry determines that an investigation is not warranted, sufficiently detailed documentation of the inquiry must be maintained to permit a later assessment of the reasons. The individual(s) against whom the allegation was made will be given a copy of the report of the inquiry.

Termination of an inquiry before all facts are available to close the matter requires consultation with the Dean. Premature termination of an inquiry involving federally funded research projects requires a written report to the federal agency sponsoring the research. If the Dean for Research or designee determines that the inquiry is not warranted, then the termination will not be reported to the federal agency sponsoring the research.

At the conclusion of the inquiry, the Dean or the Dean's designee will advise the person who made the allegation about how the matter was decided. When the allegations are not confirmed, diligent efforts to restore the reputation of the accused person(s) will be made as deemed appropriate by the Dean of the division. If the inquiry determines that an investigation is not warranted, the records will be kept secure by the Dean's Office for seven years. Records will be available to authorized federal personnel upon request, if the allegations concern federally supported research.

If the inquiry concludes that there appear to be grounds for a charge of research misconduct, the Dean will initiate a formal investigation into the matter and notify the Provost of the pending investigation. If the matter involves federally sponsored research or an application for federal support, the appropriate federal agency also will be notified, as required by Federal regulations.

(Information regarding these regulations may be obtained from Research Projects Administration or the office of the Dean for Research).

4. Investigation

The purpose of the investigation is to assemble all relevant evidence of the alleged research misconduct, from documentation, interviews with those involved, and interviews with those knowledgeable about the activities under investigation. Data collection by a panel of faculty is to be objective, independent, unbiased, and thorough. The investigation should determine whether misconduct occurred.

The investigation will be conducted by an Ad Hoc Committee appointed by the Dean of the division and consist of two or more faculty members from The Johns Hopkins University or other academic institutions as may be needed to provide the necessary and appropriate expertise. The Ad Hoc Committee will initiate the investigation within 30 days of notifying applicable federal authorities, if required, and make a good faith effort to complete the investigation within 120 days of its initiation.

The Ad Hoc Committee will conduct a careful review of the allegations, using procedures appropriate to the nature of the inquiry and affording a fair opportunity to all individuals concerned to present their knowledge and information to the Committee. Consideration should be given to reviewing all research with which the accused person is involved. Other areas of professional misconduct (e.g., personnel supervision, human or animal subjects research, or personal interaction) may be investigated as well, if the Committee has reason to believe, or uncovers evidence, that a broader range of misconduct has occurred. Throughout the investigation, the accused and any collaborators or supervisors whose role in the alleged research misconduct is under scrutiny should be given the chance to respond to questions about their own performance and conduct and to provide additional information relevant to the subject matter of the investigation.

At the beginning of and during the investigation, the Dean or the Dean's designee must take the following steps, if they have not been already completed:

- A. Each person accused of misconduct must be informed in writing of all the charges against him or her and the fact that an investigation is taking place. The accused person must be informed promptly of any amendment to the original charges.
- B. Each accused person will be notified of the names of the members of the Ad Hoc Committee appointed by the Dean of the division to conduct the investigation. The accused person may request that the Dean replace a member of the Ad Hoc Committee for reasons of potential bias or conflict of interest.
- C. The Ad Hoc Committee will give the accused person written notification of the place, time, and date of any meeting at which his or her appearance is requested. Every effort will be made to schedule such meetings at a mutually convenient time. Unless waived by the accused person, no initial meeting with the Ad Hoc Committee will take place less than seven (7) days after he or

she receives the Ad Hoc Committee's request to appear. The accused person may request a rescheduling of the meeting(s) with the Ad Hoc Committee for good cause. The accused person's failure or refusal to meet with the Ad Hoc Committee will not deter the progress of the investigation. If the accused person is no longer a member of the Johns Hopkins academic community, the requirements of written notice and an opportunity to answer to the charge of misconduct will be observed as far as is practical, but the failure of the accused to respond or to make himself or herself available to those with investigatory responsibilities will not deter the inquiry and investigation.

D. All relevant materials and documents secured during either an inquiry or an investigation must be kept in the office of the Dean or another designated location at the earliest opportunity.

E. At the beginning of the investigation, the accused person will be given the chance to consult with an uninvolved senior faculty member (e.g., a former member of the Academic Council, who is knowledgeable about the procedure), who will serve as "ombudsman" to the accused person throughout the proceedings. The role of the ombudsman will be to offer advice and guidance regarding the procedural aspects of the investigation. The ombudsman is not expected to act as an advocate for the accused. This individual will be appointed by the Dean of the division subject to approval by the accused person, may remain involved for any later adjudication proceedings, and may, upon request, accompany the accused person to meetings with investigating or adjudicating committees.

F. All testimony to the Ad Hoc Committee by the accused or other persons will be recorded verbatim. Copies of the recordings may be furnished to the accused person upon request. Deliberations of the Ad Hoc Committee will not be recorded.

G. The accused person will be allowed to present a written statement at the start and close of the Ad Hoc Committee's investigation. The accused may request to meet with the Committee, but the investigation may proceed if the accused declines. He or she may request that the Committee interview certain individuals with relevant information, and may suggest to the Committee any avenues of inquiry that he or she believes are likely to produce relevant evidence. The accused person may request an opportunity to question the accuser at a Committee meeting. If in the Dean's judgment, this would impose undue hardship on individuals involved, the Dean may decline to honor the request for a face-to-face meeting.

H. The Ad Hoc Committee will consider all the evidence presented in the investigation and based upon the preponderance of the evidence, determine whether with respect to each allegation research misconduct did or did not occur; if it did whether it constitutes falsification, fabrication or plagiarism; whether it was intentional, known or in reckless disregard of accepted scientific standards and if the conduct represented a significant deviation from accepted scientific standards.

I. The Ad Hoc Committee will prepare a draft report that will include the names of the persons interviewed; a summary of the interviews; a description of the documents, data, and other evidence examined by the Ad Hoc Committee; and the Committee's conclusion regarding each of the allegations. The accused person will be given a copy of the Ad Hoc Committee's draft

report and will have 30 days to comment. The Committee's final report will include the accused person's comments in an appendix as well as consider and address the comments. The Office of Research Integrity or other appropriate federal agency will be given a copy of the report in cases where it has jurisdiction.

J. Any granting agency that is supporting, considering support, or has supported the research in question must be informed that an investigation is taking place. For research sponsored by the Public Health Service, the report must be submitted to the Office of Research Integrity, which will then inform relevant federal sponsors. This may be done, consistent with the applicable agency rules, without identifying the individuals accused. The funding agency and the Office of Research Integrity must be kept informed of progress throughout the investigation, in accordance with regulatory requirements.

K. At any stage of the investigation, the Dean, after consultation with the Ad Hoc Committee, may take steps to notify other parties who, in the Dean's judgment, should be informed of the ongoing investigation. The Dean also will take interim administrative action as necessary to protect any sponsored project funding and assure that intended purposes of the sponsored research in question are being carried out.

L. If at any stage of the inquiry or investigation of cases involving federally sponsored research it is determined that any of the following conditions exist, the Dean of the division will notify the Office of Research Integrity or other appropriate federal agency:

- (1) Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
- (2) HHS resources or interests are threatened.
- (3) Research activities should be suspended.
- (4) There is reasonable indication of possible violations of civil or criminal law;
- (5) Federal action is required to protect the interests of those involved in the research misconduct proceeding.
- (6) The research institution believes the research misconduct proceeding may be made public prematurely so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.
- (7) The research community or public should be informed.

M. The likelihood that a criminal act may have occurred must be reported immediately to the Office of the General Counsel for the University, which will assume responsibility for prompt notification of the appropriate federal, state, and local authorities.

If the Ad Hoc Committee's investigation concludes that research misconduct has not occurred, and if the Dean of the division concurs with these findings, the matter will be closed, with attention to full restoration of the reputation of those under investigation. The Dean will retain the records of the investigation, including the findings of the Ad Hoc Committee, in a confidential, sequestered file. A copy of the Committee's findings of no misconduct will be sent by the Dean of the division to the accused person, and to the Office of Research Integrity or other relevant agencies, if notification was required previously.

If the Ad Hoc Committee concludes that research misconduct has occurred, it will report its findings as follows. The Ad Hoc Committee's written report will include only its findings and the significance assigned by the Committee to such findings, but will not include recommendations as to disciplinary action. If the accused person is a faculty member or student, the report will be sent to the accused person, the supervisor of the accused, and the Dean. If the accused person is a staff employee, the report will be sent to the accused person, their supervisor, the divisional human resources office, and the Dean of the division for disciplinary action, as deemed appropriate.

If, in the judgment of the Ad Hoc Committee, the allegations, however incorrect or unsupported, appear to have been made in good faith, no retaliatory or disciplinary action will be taken against the accuser(s), and appropriate measures will be taken to protect the accuser(s) from retaliation. If the Ad Hoc Committee finds the allegations of misconduct to have been based on fraudulent evidence, appropriate disciplinary action will be taken against those responsible, in accordance with the Whiting School of Engineering and the Krieger School of Arts and Sciences Procedures for Dealing with Issues of Professional Misconduct.

5. Dean's Role

It is the role of the Dean of the division to review the investigation report in the context of any extenuating or aggravating circumstances, while considering any rebuttals submitted by the person(s) found to have engaged in research misconduct.

Interested parties, including the accused person and the accuser(s), may be given an opportunity to submit written comments to the Dean to state their views on why the findings of the Ad Hoc Committee should be accepted or rejected in whole or in part, or otherwise modified. Such comments on the Ad Hoc Committee's report should be received by the Dean within ten days of receipt of the report and request for comment.

The Dean may accept or reject the report in whole or in part. At the conclusion of the review, the Dean may impose or recommend sanctions or remedial actions that the Dean considers appropriate to the circumstances concerning the research misconduct. These sanctions may include, but are not limited to, the following:

- A. withdrawal or correction of papers and abstracts;
- B. notification directed to editors of journals where fraudulent or suspect research has been published or is under review;
- C. notification of sponsoring agencies;
- D. termination or alteration of employment status, including periods of supervised probation;
- E. postponement or denial of promotion or advancement;

F. release of information about the incident to the public, particularly when public funds were used to support the fraudulent or suspect research; or

G. any other action deemed appropriate to the circumstances.

For cases involving senior staff and/or others who are not tenure track, or for sanctions not negatively affecting a faculty member's appointment or appointment with tenure, any of these sanctions may be imposed by the Dean after consultation with the Office of the General Counsel. However, for tenured or tenure-track faculty, any sanction that may negatively affect a faculty member's appointment or appointment with tenure must be imposed by the Academic Council. This would include suspension, termination, or any other alteration of employment status.

6. Academic Council

In those cases where a sanction may negatively affect a faculty member's appointment or appointment with tenure, the Dean of the division will forward the report and recommendations to the Academic Council. The Academic Council will consider the case and decide what, if any, disciplinary action to take. Interested parties will be allowed to submit a written statement or materials relevant to the disposition of the case, but may not request to meet with the Council. The Academic Council will report its decision to the Dean of the division, the Provost, the President, and the accused person. All records of the proceedings will be maintained in confidence by the Dean of the division.

7. Appeals

The accused person may appeal the Dean's or Academic Council's decision to the Provost of the University within fourteen days (14) of receiving the decision. The appeal review by Provost will be limited to the adequacy of the procedures followed and the appropriateness of the disciplinary action taken.

8. Office of the General Counsel

The responsibilities of the Office of the General Counsel include:

- A. ensuring compliance with all applicable laws and regulations;
- B. monitoring the progress of the resolution of each allegation of research or professional misconduct to ensure adherence to the established School and University procedures;
- C. general supervision of proceedings for the purpose of affording procedural fairness to the accused, the accuser, and witnesses; and
- D. notification to appropriate authorities of suspected criminal acts.

The Office of the General Counsel will not act as the prosecutor or defender of the accused person, but will act as an impartial legal advisor to Whiting School of Engineering and the

Krieger School of Arts and Sciences Administration and the University. Procedural questions from the accused person, accuser, or prospective witnesses should be referred through the Dean's staff to the Office of the General Counsel.

The Office of the General Counsel is available to render advice to department chairs or center directors, the Dean or the Dean's designee, ad hoc investigation committees, and the Academic Council; however, no member of the Office of the General Counsel will be present at any meetings of the Ad Hoc Committee in which there is testimony. Individuals serving in any of these capacities are encouraged to seek legal guidance regarding any procedural question, particularly in connection with the preparation of written reports of actions taken, or before any action is taken with respect to any person believed to have made an accusation of misconduct in bad faith. Any contact or inquiry to the University or the Homewood Schools from a lawyer outside the University, including contacts and inquiries emanating from legal representatives of any federal, state, or local agency, must be referred to the Office of the General Counsel.

9. Exclusivity of Procedure

This procedure for the resolution of misconduct is the exclusive mechanism within the Whiting School of Engineering and the Krieger School of Arts and Sciences for adjudication of questions of this nature. A person disciplined under this procedure may not invoke the Schools' grievance procedure in an effort to gain a re-adjudication of the charge.