

NOTICE OF PROPOSED REGULATION AMENDMENT

Date: February 20, 2013

REGULATION TITLE: University of Florida; Policy for Dealing with Conduct in Research
REGULATION NO.: 1.0101

SUMMARY: Allegations of research misconduct are to be forwarded to the Director of Research Compliance or designee, who also conducts the inquiry if warranted. Inquiry and investigation interviews must be recorded. Other changes to this regulation clarify current requirements, all of which are reflective of federal regulations concerning research misconduct.

AUTHORITY: BOG Regulation 1.001

COMMENTS CONCERNING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation you are commenting on.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS: Rebecca J. Holt, Senior Administrative Assistant, 123 Tigert Hall, Post Office Box 113125, University of Florida, Gainesville, Florida 32611, 352-392-1358 office, 352-392-4387 facsimile, regulations@ufl.edu.

NAME OF PERSON WHO APPROVED THE PROPOSED REGULATION: David Norton, Vice President for Research

THE FULL TEXT OF THE PROPOSED REGULATION IS ATTACHED TO THIS NOTICE.

REGULATIONS OF
UNIVERSITY OF FLORIDA

6C1-1.0101 University of Florida; Policy for Dealing with Conduct in Research

(1) University Policy -- It is the policy of the University that each individual faculty and staff member and student is expected to maintain high ethical standards in the conduct and reporting of his/her research. Should alleged incidents of misconduct in research occur, reporting of such possible violations is a shared responsibility, and it is the duty of the faculty, staff members and students to respond in a fitting manner to resolve issues arising from such alleged misconduct.

(2) Faculty, Staff, and Student Responsibilities -- Faculty members, staff, and students at the University of Florida are expected to maintain ethical standards in the conduct and reporting of scientific and scholarly research. Faculty, staff, and students have responsibilities for ethical conduct in research not only to the University, but also to the community at large, to the academic community, and to private and public institutions sponsoring the research activities.

(3) Definition of Research Misconduct -- Research Misconduct is defined for the purposes of this regulation as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

(a) 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.

(b) Research Misconduct does not include honest error or differences of opinion. It does not include authorship or credit disputes. In addition, failure to comply with federal requirements affecting specific aspects of conducting research, misappropriation of federal funds, failing to comply with the University's Institutional Review Board policies and procedures, or

other inappropriate actions in research which do not fall within the definition of research misconduct as stated in this paragraph and which are in violation of existing University regulations or policies are addressed under such other regulations or policies.

(c) A finding of Research Misconduct requires:

1. There be a significant departure from accepted practices of the relevant research community;

2. The misconduct be committed intentionally, knowingly, or recklessly; and

3. The allegations be proven by a preponderance of the evidence.

(4) Basic Principles Governing Investigations of Research Misconduct -- If allegations of Research Misconduct are made, the procedures implemented may vary depending on the type, seriousness, and technical nature of the alleged Research Misconduct. Faculty, staff, and students will be guided by the following principles:

(a) The rights of all faculty members, staff, and students of the University must be protected to the ~~greatest~~ extent possible, whether they be the accused or ~~whether they be the~~ accusers, witnesses, or research subjects during the process of inquiry, investigation and fact finding, including protecting the privacy of the accused and of those who in good faith report alleged misconduct or serve as witnesses. There shall be no recrimination toward a person bringing an allegation in good faith, and retaliatory conduct against complainants, witnesses, committee members, and other persons involved in the Research Misconduct process who are acting in good faith will be deemed misconduct subject to disciplinary action under University regulations or the applicable collective bargaining agreements.

If an allegation is found to have been brought maliciously or in bad faith, the filing of the complaint can be cause for a finding of misconduct and subsequent disciplinary action against the complainant in accordance with University regulations or the applicable collective bargaining agreement.

(b) University regulations and/or applicable collective bargaining agreement provisions shall govern any formal disciplinary proceedings initiated in response to a finding by the investigating authority of Research Misconduct.

(c) Confidentiality shall be maintained throughout an inquiry or investigation of alleged Research Misconduct to the greatest extent possible and consistent with the laws of the State of Florida and federal law. Inappropriate dissemination of information relating to a Research Misconduct allegation can form the basis for a finding of misconduct and subsequent disciplinary action against faculty, staff, or students.

(d) Precautions shall be taken against real or apparent conflict of interests of individuals involved in an inquiry or investigation of an allegation of Research Misconduct.

(e) Notwithstanding other provisions of this regulation, if federally-sponsored research is involved, the time limits set forth in the applicable federal regulations will govern the process and be substituted for the time limits set forth in this regulation if the federally-established time limits differ from those in this regulation.

(5) Receipt and Processing of an Allegation of Research Misconduct~~Pre-Inquiry and Inquiry Procedures for Dealing with Alleged Research Misconduct~~

(a) Filing the Allegation of Research Misconduct. Allegations of Research Misconduct may be brought~~should be filed~~ by anyone who has reason to believe that such misconduct has occurred. Any s~~Such an~~ allegation must~~should~~ be brought to the Director of Research Compliance in the Office of Research at compliance@research.ufl.edu, 352-294-1632 office, 352-273-1988 fax or website at www.research.ufl.edu/research/compliance.html~~administrative officer to whom the accused reports, e.g. supervisor, department chairperson, dean or director. The complainant may wish to discuss the matter with the administrator before filing an allegation in which case the administrator shall determine whether resolution through informal evaluation and discussion is possible, including determining whether the complainant's concerns are unjustified, mistaken, or frivolous.~~ Such allegation normally should be made~~put~~ in writing and signed; however, an allegation may be made anonymously,~~and should state~~ The specific

grounds for the allegation of Research Misconduct should be stated. Any relevant documentation supporting the allegation should be included with the complaint.

(b) Processing the Allegation of Research Misconduct - Pre-Inquiry Review. ~~The administrator to whom the allegation has been made shall immediately inform the dean (or director) of the college (or school), in writing of the allegation with a copy to the Vice President for Research.~~ The Director of Research Compliance or designee ~~is administrator~~ charged with reviewing the allegation to determine if an inquiry is warranted.~~shall meet as soon as possible with the complainant to discuss the allegation. If the allegation is determined to be wholly lacking in any basis, the allegation shall be dismissed.~~ An inquiry is warranted if the allegation falls within the definition of Research Misconduct and is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified. If the Director of Research Compliance or designee determines that an inquiry is not warranted, a ~~A~~ record of the allegation, the steps taken to review the allegation, and the basis for determining that no inquiry is warranted~~its dismissal~~ shall be maintained by the Vice President for Research or designee in accordance with section (8) of this regulation.

(d) Inquiry Process

1. Upon determining that an inquiry is warranted, the Director of Research Compliance or designee ~~there is some evidence that the allegation may have basis, the administrator reviewing the allegation~~ shall proceed with an inquiry into the allegation. The Director of Research Compliance or designee ~~administrator~~ reviewing the allegation shall be responsible for making a good faith effort to notify~~ing~~ the accused in writing of the allegation, advising the accused of the procedures to be followed by the University, affording the accused an opportunity to respond to the allegation, and keeping the accused informed of the progress of the inquiry process. The accused shall be provided with a copy of this regulation describing the procedures to be followed. The accused has the right to retain legal counsel.

2. Sequestration of Research Data

a. All original research data and/or other records involved in the allegation must be secured by the Director of Research Compliance or designee on or before the date the accused is notified of the allegation or the inquiry begins, whichever is earlier. If the data are contained on a shared piece of equipment, a copy of the data may be made and secured if the copy has substantially equivalent evidentiary value.

b. Sequestration of research data and/or other records shall not constitute disciplinary action, but is meant to preserve the data and other records. Upon request, the accused shall be provided a reasonable means of access to the data and other records or to legible reproductions.

c. An inventory shall be made of the sequestered research data and/or other records.

~~2. All original research data or other information involved in the allegation should be secured by the administrator who has assumed the responsibility for conducting the inquiry. Such action shall not constitute disciplinary action, but is meant to preserve the data or information. Prior to securing the data, the accused shall be informed of the reasons for securing the data unless there is a concern that the data or information will be lost, adulterated, altered, made inaccessible or otherwise compromised. Measures shall be taken to protect the accused from unreasonable searches. Upon request, the accused shall be provided a reasonable means of access to the data or to legible reproductions.~~

~~3. In the case of joint or affiliate appointments or collaborative research projects, the dean or director where the accused holds his/her primary appointment, or the Vice President for Research, shall decide if other administrative units should be involved in the inquiry.~~

34. The Director of Research Compliance or designee shall conduct the inquiry, which may include the use of one or more additional reviewers and/or scientific consultants. Any formal interviews conducted as part of the inquiry process shall be recorded~~administrator shall conduct an inquiry into the allegation.~~ The inquiry shall be concluded by the Director for Research Compliance or designee within fifty (50) calendar days, and a final decision shall be made by the Vice President for Research or designee whether an investigation is warranted within sixty (60) calendar days, of the commencement of the inquiry~~receipt of the allegation~~

unless circumstances clearly warrant a longer period. If the inquiry and the final determination as to whether an investigation is warranted under paragraph (6)(a)1 of this regulation together takes longer than sixty (60) calendar days from the commencement of the inquiry~~date of the allegation~~ to complete, the record of the inquiry shall include documentation of the reasons for exceeding the sixty (60) day period. In addition the Director of Research Compliance or designee shall submit to the designated agency official, if and when required under applicable federal regulations when federally-sponsored research is involved, a written request for an extension of time to complete the inquiry.

4. Upon conclusion of the inquiry, the Director of Research Compliance or designee~~administrator~~ responsible for conducting the inquiry shall submit a written report of the findings to the Vice President for Research or designee and to the accused indicating whether an investigation is warranted. An investigation is warranted if there is a reasonable basis for concluding that the allegation falls within the definition of Research Misconduct and preliminary fact finding from the inquiry indicates the allegation may have substance.~~that:~~

~~a. — The findings of the inquiry do not provide any reasonable substantiation of the allegation or that the allegation as substantiated does not fall within the definition of Research Misconduct, or~~

~~— b. — The findings of the inquiry indicate that there is some credible evidence that Research Misconduct has occurred so as to warrant an investigation.~~

In addition to the conclusion reached, the written report shall state what evidence was reviewed~~and shall summarize the relevant interviews~~. The accused shall be provided with a copy of the report and the accused's comments on the report, if any, will be made part of the record. ~~Detailed~~ Documentation of the inquiry shall be maintained in accordance with section (8) of this regulation~~a secure manner for at least three years following the termination of the inquiry or subsequent investigation at the office of the Vice President for Research or designee~~ and shall, upon request, be provided to authorized sponsoring agency personnel.

(6) Post-Inquiry Procedures

(a) Upon receipt of the report, the Vice President for Research or designee shall review the report and proceed in the following manner:

1. In cases where the Director of Research Compliance or designee determines that an investigation is not warranted, the Research Misconduct process~~administrator conducting the inquiry has found no sufficient basis for conducting an investigation, the inquiry~~ shall be terminated unless the Vice President for Research or designee~~, after assessing the reasons given for the conclusion that an investigation is not warranted,~~ determines within ten (10) days after receiving the report (and 60 days after the commencement of the inquiry) that an investigation is warranted. Such a determination by the Vice President for Research or designee must be in writing, give specific reasons why the investigation is warranted, and made a part of the inquiry report. If a determination that an investigation is not warranted is made, In cases where the inquiry is terminated, the accused shall be notified and detailed documentation of the inquiry shall be maintained in accordance with section~~paragraph~~ (8) of this regulation~~below~~.

2. In cases where the determination has been made that~~findings of the administrator conducting the inquiry provide a sufficient basis for conducting~~ an investigation is warranted, the Director of Research Compliance~~Vice President for Research~~ or designee shall initiate an investigation, within twenty (20) calendar days of the completion of the inquiry including by and shall constitute an ad hoc College Research Advisory C investigation committee to conduct the investigation, within thirty (30) calendar days from the finding that an investigation is necessary. The ad hoc College Research Advisory investigation -C committee will consist of three or more faculty members, ~~or~~ other employees, and/or other persons (not connected with the University) who have sufficient expertise in the subject matter under investigation. The cCommittee shall be given the authority and assistance necessary to conduct a thorough investigation of the matter~~allegation~~. The committee shall pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct and continue the investigation to completion. Such investigation shall commence no later than ten (10) calendar days after the

cCommittee's appointment. The accused shall upon request be given access to all relevant documents reviewed by the cCommittee.

(b) In the case of federally-sponsored research, the decision to proceed with an investigation shall be reported in writing (with a copy of the inquiry report and any comments on the report by the accused) to the designated office (Office of Research Integrity, Inspector General, etc.) of the sponsoring agency or agencies supporting the research on or before the date of the initiation of such an investigation. The notification to the sponsoring agency shall, at a minimum, include the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the application or grant number(s) involved. A copy of the notification shall be furnished to the accused and the accused's dean or director. If the results of the inquiry contain any reasonable indication of possible criminal law violations, the Director of Research Compliance~~Vice President for Research~~ or designee shall notify the official as designated by the agency's regulations within twenty-four (24) hours of obtaining such an indication. The Director of Research Compliance~~Vice President for Research~~ or designee shall keep the designated agency official apprised of any development during the course of the investigation which discloses facts that may affect current or potential agency funding for the individual(s) under investigation or that the agency needs to know to ensure appropriate use of federal funds and otherwise protect the public interest. The Vice President for Research or designee shall take interim administrative actions, as appropriate, to protect federal funds and insure that the purposes of the federal financial assistance are carried out. The Director of Research Compliance~~Vice President for Research~~ or designee is responsible for notifying the designated agency official immediately at any stage in the inquiry or investigation if: (i) the health or safety of the public is at risk, including an immediate need to protect human or animal subjects; (ii) federal resources or interests are threatened; (iii) research activities should be suspended; (iv) there is reasonable indication of possible violations of civil or criminal law; (v) federal action is required to protect the interests of those involved in the Research Misconduct

proceeding; (vi) there is a reasonable probability that the Research Misconduct proceeding may be made public prematurely; or (vii) the research community or public should be informed.

The Vice President or designee normally will wait until the outcome of the investigation to notify others, such as corporate sponsors, journal editors, co-authors or affiliated institutions, of the allegation of misconduct, unless there exists compelling reasons in the judgment of the Vice President for Research or designee, such as a danger to human health, welfare, or safety, the need for information or cooperation of the other part(ies), or the indication of ongoing research misconduct that warrants another institution conducting its own inquiry.

Throughout the notification process outlined above, all communications to sponsoring agencies, institutions, organizations, and representatives thereof shall emphasize that no finding of guilt has been made at that time.

(c) ~~The Committee shall complete~~ A thorough investigation of the allegation shall be completed within one hundred twenty (120) calendar days of the initiation of the investigation. If the investigation will exceed ~~Committee determines that it will not be able to complete the investigation within~~ one hundred twenty (120) calendar days, the record of the investigation shall include documentation of the reasons for exceeding the one hundred twenty (120) day period ~~it must notify the Vice President for Research or designee.~~ In addition, if the investigation will not be completed within one hundred twenty (120) calendar days, the Director of Research Compliance ~~Vice President for Research~~ or designee shall submit to the designated agency official, if and when required under applicable federal regulations when federally-sponsored research is involved, a written request for an extension and an explanation for the delay that includes an interim report on the progress to date and an estimate for the date of completion of the final report. The 120 calendar day time limitation shall include conducting the investigation, preparing the report of findings, making that report available for comment by the subjects of the investigation, and submitting the report to the designated agency official. If the Vice President for Research or designee plans to terminate an inquiry or investigation for any reason without completing all relevant requirements under federal law with regard to federally-sponsored

research, a report of such planned termination, including a description of the reasons of such termination shall be made to the designated agency official who will then decide whether further investigation should be undertaken.

(d) Whenever possible, interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as other available individuals who have been reasonably identified as having relevant~~might have~~ information regarding relevant~~key~~ aspects of the investigation, including witnesses identified by the accused. All such interviews shall be recorded and the recordings made a part of the investigative file. A copy of the recorded interview shall be made available to the person interviewed upon request or as required under applicable federal regulations.~~allegations; complete summaries of these interviews should be prepared, provided to the interviewed party for comments or revision, and included as part of the investigative file.~~ Throughout the investigation, confidentiality shall be maintained to the ~~greatest~~ extent possible, consistent with the laws of the State of Florida and ~~f~~Federal law. All individuals involved in the investigation should be informed of the confidentiality requirements. The investigation cCommittee shall prepare and maintain the documentation to substantiate the investigation's findings. This documentation is to be made available to the designated agency official in the case of federally-sponsored research.

(e) After completing its investigation, the investigation cCommittee shall submit its findings and recommendations, in writing, to the Vice President for Research or designee. If a federally-sponsored project is involved, the final report submitted to the designated agency official must include a description of the policies and the procedure under which the investigation was conducted, how and from whom information was obtained, the findings, and the basis for the findings, and include the actual text or an accurate summary of the views of any individuals found to have engaged in misconduct. The investigation cCommittee shall attach to the report a list of documents or other information it considered in its investigation of the allegation. Prior to forwarding the final report to the Vice President for Research or designee, the investigation cCommittee shall provide a draft report to the accused who shall have the right to

respond to the cCommittee in person or in writing within a specified period of time. The cCommittee shall consider such response in finalizing its report. The person(s) who raised the allegations should be provided with those portions of the report that address their role and opinions in the investigation.

(fe) The Vice President for Research or designee shall review the investigation cCommittee's report and determine in writing whether the university accepts the report and findings. If the Vice President for Research or designee determines to modify or reject any findings and/or recommendations of the committee, the Vice President for Research or designee shall provide written justification for such a decision to the committee and the accused. Alternatively, the Vice President or designee may return the report to the committee with a request for further fact finding or analysis.~~take such actions as indicated in section (7) below.~~

(7) Action Following Investigation.

(a) If the University~~Committee~~ finds that the evidence indicates that the accused has not engaged in Research Misconduct, the Vice President for Research or designee shall promptly notify all appropriate individuals of the University's~~Committee's~~ findings, including the accused. In the event that notification of the allegations has been sent to sponsoring agencies or others, the Vice President for Research or designee shall promptly notify all such agencies and ~~others~~individuals of the outcome of the investigation.

(b) If the University~~Committee~~ finds that the evidence indicates that the accused has engaged in Research Misconduct, the Vice President for Research or designee and the Dean or Director~~administrator~~ responsible for the appointment and assignment of the accused shall review the investigation cCommittee's report and the Vice President's or designee's determination as described in subsection (6)(f) of this regulation, and shall, within fifteen (15) calendar days of receipt of the cCommittee's report or as soon thereafter as possible (which period shall be within the 120-day period provided for completion of the investigation unless an extension is authorized), make a preliminary determination as to the action to be taken by the University. The accused shall be promptly informed of such action to be taken and the reasons

therefor. If a federally-sponsored project is involved, the Vice President for Research or designee shall provide the designated agency official with a copy of the [investigation c](#)Committee's report [and the Vice President's or designee's determination](#) and shall inform the designated agency official of the action taken by the University as well as a description of any sanction(s) taken. Formal action will be taken in accordance with the appropriate provisions of University of Florida regulations or the applicable collective bargaining agreements as University procedures require. Examples of such action include, but are not limited to, the following: removal from a research project, monitoring and reporting of future research, reprimand, salary reduction, rank reduction, suspension, or termination.

1. ~~(e)~~ If grievance proceedings are [timely](#) initiated by the accused and the outcome of the proceedings [does not uphold the finding of Research Misconduct](#) ~~is favorable to the accused~~, the appropriate Vice Presidents, Dean or Director shall make every effort to clear the record of the accused with sponsoring agencies and other appropriate individuals or institutions, and to undertake diligent efforts to protect the positions and reputations of those persons who in good faith made allegations, and shall notify the agencies, individuals or institutions of the outcome of the proceedings.

2. ~~(d)~~ If grievance proceedings [are timely initiated by the accused and the outcome of the proceedings uphold a result in a finding of Research M](#)misconduct, [or if the accused does not timely file a grievance pursuant to an appropriate grievance procedure under an applicable University regulation or collective bargaining agreement](#), the designated official of the sponsoring agency and other appropriate individuals or institutions, including editors of relevant journals, shall immediately be notified. All findings of the proceeding shall be incorporated into the personnel file of the accused.

3. [If a grievance proceeding is not completed within 120 days of the filing of the grievance, the Director of Research Compliance or designee is responsible for requesting from the designated federal official any extensions of time required under federal regulations that are needed to accommodate the University's disciplinary and grievance processes.](#)

(8) Records. ~~Records~~ Research Misconduct Records under this regulation ~~pertaining to the allegation, inquiry and investigation~~ shall be maintained in a secure manner ~~for a period of at least three years~~ by the Vice President for Research or designee for a minimum of seven years after the research misconduct process is closed or seven years after the termination of any grievance proceedings concerning any discipline imposed as a result of any finding of Research Misconduct, whichever is later ~~after the termination of the inquiry or investigation~~, and shall, upon request, be provided to authorized funding agency personnel. If a federally-sponsored project is involved, the records shall be maintained to at least meet requirements of ~~in accordance with~~ federal regulations. If the applicable retention period under state law is longer than the applicable federal retention period, the records shall be retained for such longer period. Research Misconduct Records for purposes of this regulation shall be defined as:

- (a) Records documenting the determination to proceed or not proceed to an inquiry;
- (b) Records secured pursuant to subparagraph (5)(b)1.a of this regulation except to the extent the University subsequently determines and documents that those records are not relevant to the proceeding or that the records duplicate other records that are being retained;
- (c) Documentation of the determination of irrelevant or duplicate records;
- (d) The inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate;
- (e) The investigation report and all records (other than drafts of the report) in support of that report, including the recordings of each interview conducted;
- (f) Documentation of the Vice President's determination as described in subsection (6)(f) of this regulation and the actions taken under subsection (7)(b) of this regulation; and
- (g) Records of any grievance proceedings concerning a finding of Research Misconduct.

Specific Authority BOG Resolution dated January 7, 2003.

History--New 5-23-96, Amended 3-30-07, _____.