



Research Misconduct Policy Statement¹

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¹ Eastern Mennonite University and the Eastern Mennonite University Institutional Review Board would like to acknowledge and thank Grinnell College for allowing us to adapt this statement from their Statement of Policy and Procedures for Responding to Allegations of Research Misconduct.

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I. Introduction

A. General Policy and Its Purpose

Consistent with the mission, vision and values of Eastern Mennonite University and with its Life Together statement, the university holds faculty and students to the highest standards in the conduct of research. While EMU aims to prevent any instances of researcher misconduct, the university takes seriously the need to investigate possible instances of misconduct. EMU is committed to a process of considering complaints made in good faith while protecting the positions and reputations of complainants and all those asked to participate in investigations.

The following policy is intended to fulfill EMU's responsibilities under the Public Health Service (PHS) Policies on Research Misconduct (including but not limited to 42 CFR Parts 50 and 93), as well as the corresponding policies on research misconduct of other federal agencies.

Policies and Procedures for Responding to Allegations of Research Misconduct will be available to faculty, students, staff, and the public, on the EMU Policies web page (<http://www.emu.edu/policies/>) and the EMU IRB website (<http://www.emu.edu/irb/>).

B. Policy Scope

This document describes the policies and procedure to be followed in response to allegations of researcher misconduct (defined below) involving EMU faculty, staff and/or students engaged in research, including research that is funded by federal agencies.

Allegations of research misconduct involving EMU students will follow the policies and procedures outlined in this document. In cases where the alleged research misconduct involves work for credit, the research integrity officer (RIO) and the deciding official (DO) may treat the incident as an academic integrity violation and engage the Student Academic Integrity Policy as appropriate.

This policy is not intended to be used to resolve conflicts related to researcher collaborations or conflicts related to author ordering, for example. These policies apply only to misconduct taking place within six years of the date of receipt of the allegation of misconduct by either EMU or Health and Human Services (HHS).

II. Definitions

The following definitions are taken from the Office of Research Integrity;
<https://ori.hhs.gov/definition-misconduct>

Research misconduct is the fabrication, falsification or plagiarism in proposing, performing, or reviewing research, or in reporting research results. It does not include honest error or honest differences in interpretations or judgments of data.

Research is the creation of new knowledge and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies and understandings. This could include synthesis and analysis of previous research to the extent that it leads to new and creative outcomes (definition adapted from the 2015 Higher Education Research Data Collection specifications for the collection of 2014 data). For the purposes of this policy, a project need not be designed to contribute to generalizable knowledge to be considered research.

Fabrication is making up data or results, and recording or reporting them.

Falsification is misrepresenting 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 of another person's ideas, processes, results, or words without giving appropriate credit.

Complainant is a person who in good faith makes an allegation of research misconduct.

Respondent is a person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding as described in this policy statement.

III. Roles and Responsibilities

The deciding official (DO) at Eastern Mennonite University is the Provost. The DO will appoint a research integrity officer (RIO), normally the chair of the Institutional Review Board, who will have primary responsibility for implementation of these policies and procedures. The RIO's responsibilities are summarized in Exhibit A.

IV. General Policies and Principles

A. Responsibility to report misconduct

All Eastern Mennonite faculty, staff members and students have a responsibility to report observed, suspected or apparent research misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, concerned persons may contact the RIO to discuss the suspected research misconduct informally, which may include discussing it anonymously or hypothetically. To initiate the research misconduct inquiry process, an individual must submit a written allegation to the RIO.

B. Confidentiality

At any time, an institutional member may have confidential discussions about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations of research misconduct.

C. Cooperation with research misconduct proceedings

The EMU community of faculty, staff and students, including those accused of researcher misconduct (respondents) are expected to cooperate fully with the RIO and other institutional officials in the review of allegations of research misconduct and the conduct of any inquiries and investigations. All have an obligation to provide evidence relevant to allegations of research misconduct to the RIO or other institutional officials.

D. Guiding Principles

Throughout the process of inquiry, investigation, and implementation of any administrative actions or other resolution, all participants must bear in mind the importance of:

- A. thoroughness, fairness, objectivity, and reasonable expediency (in fact and appearance);
- B. protecting, to the maximum extent possible, the privacy of those who in good faith report alleged misconduct;
- C. protecting, to the maximum extent possible, the rights and privacy of the respondent, including the right to be informed of the alleged misconduct, of the evidence in support of the allegation of research misconduct, and other procedures to be followed;
- D. ensuring that the professional interests and integrity of the faculty are respected; and
- E. consulting with outside agencies or institutions which have an interest in the research in question.

V. Procedures

The procedures outlined here are intended to provide a framework for responding to allegations and may be adapted to fit the demands of individual cases.

A. Assessment of Allegation

1. Assessment Criteria

The first step in this process is initiated after receiving a written allegation of research misconduct. The RIO will then assess the allegation to determine whether it warrants an Inquiry. An allegation warrants further inquiry when the following conditions are met:

- A. The allegation falls within the definition of research misconduct defined in this policy; and
- B. The allegation is sufficiently credible, and
- C. The allegation is specific enough that potential evidence of research misconduct may be identified.

2. Notifications and Evidentiary Matters

If it is determined that an inquiry is warranted, the RIO will, at the time of or before beginning an Inquiry:

- A. notify the respondent(s) of the allegation and intended inquiry; and
- B. promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner. In cases where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO shall take custody of any additional items as they become known or relevant to the proceedings.

B. Inquiry

1. Purpose

The purpose of the Inquiry is to conduct an initial review of the evidence to determine whether an allegation of research misconduct warrants an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

An investigation is warranted if:

- A. there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct defined in this policy, and
- B. preliminary information-gathering and preliminary fact-finding from the Inquiry indicates that the allegation may have substance.

2. Assistance with the Inquiry

In undertaking an inquiry, the RIO may consult, confidentially, with the respondent's department chair, supervisor, or other knowledgeable individuals regarding the allegation. If the inquiry requires the review of specialized scientific data, or otherwise at the RIO's discretion, the RIO may form an Inquiry Panel by engaging two or more individuals to assist with the inquiry and with preparing the Inquiry Report. Persons invited to the Inquiry Panel may include individuals from outside the EMU faculty. In convening the panel, the RIO shall:

- A. select individuals who possess the expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
- B. take steps to ensure that no person with an unresolved personal, professional or financial conflict of interest is involved in a research misconduct proceeding;
- C. take confidential testimony from both the individual(s) who filed the initial allegation(s) and from the respondent.

The DO shall have no direct participation in the inquiry.

3. Inquiry Report

The RIO will prepare a written Inquiry Report which, at a minimum, shall contain the information set forth in Exhibit B. Once the draft of the Inquiry Report is completed the following steps should be taken:

1. The RIO shall notify the respondent whether the inquiry found that an investigation is warranted, and provided an opportunity to review and comment on the draft Inquiry Report. Any comments received from the respondent are to be attached to the final Inquiry Report.
2. The RIO may also, at his/her/zir discretion, notify the complainant whether the inquiry found that an Investigation is warranted and provide relevant portions of the report to the complainant for comment.

4. Determination Whether to Conduct an Investigation

The RIO will deliver the Inquiry Report to the DO. The DO will receive the Inquiry Report and, after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted under the criteria set forth above. Any finding that an investigation is warranted must be made in writing by the DO and must be provided to the Public Health Service Office of Research Integrity (ORI) and/or any other relevant federal agency or office, as required by law, together with a copy of the Inquiry Report, within 30 days of the DO's decision.

5. Records of Inquiry

Detailed documentation of the inquiry will be retained in a secure manner for at least seven years after termination of any inquiry (irrespective of outcome). If it is found that an investigation is not warranted, the DO and the RIO will ensure that sufficient documentation is retained so that the Office of Research Integrity (ORI) or other HHS personnel, if applicable, may assess the decision not to conduct an investigation.

6. Timing of Inquiry

The Inquiry, including preparation of the final Inquiry Report and the decision of the DO on whether an Investigation is warranted, will be completed within sixty calendar days from the receipt of the allegation, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the Inquiry Report will include documentation of the reasons for exceeding the 60-day period.

C. Investigation

1. Timing of Investigation

If the inquiry finds that an investigation is warranted, it must begin within thirty days of such finding. An investigation is initiated if the preliminary finding from the inquiry indicates that the allegations may have substance. The investigation must be completed within 120 days of beginning the process, (including conducting the investigation and preparing, receiving comments on, finalizing, and submitting the Investigation Report) unless an extension is granted by the relevant agency, if any. In the case of PHS-supported research, a written request for an extension beyond 120 days must be submitted to ORI as required by law.

2. Notification and Evidentiary Matters

If an investigation is warranted, the RIO shall, within a reasonable amount of time of the determination and before the investigation commences:

- A. notify the respondent(s) in writing of the investigation, including written notice of any allegations not previously addressed; and
- B. to the extent he/she/zie has not already done so at the assessment or inquiry stage, take the actions described under V.A.2(b) above [sequestration of records].
- C. notify ORI and/or other federal agencies, if applicable, prior to initiation of the investigation, and send a copy of the inquiry report.

3. Appointment and Charge of the Investigation Committee

If an investigation is warranted, the RIO will appoint an impartial investigative committee in consultation with the DO. The RIO will select only those individuals who possess the expertise

appropriate to carry out a thorough and authoritative evaluation of the evidence and who do not have an unresolved personal, professional, or financial conflict of interest with respect to the research misconduct proceeding. The DO shall have no direct involvement in the investigation. The investigative committee shall consist of three to five persons, which may include one or more qualified persons from outside the EMU faculty. The respondent shall be informed of the membership of the investigative committee.

4. Investigation Process

The investigative committee shall undertake a careful and thorough review of the facts of the allegation. This review shall include, as applicable:

- A. An interview of each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the Investigation. Witnesses should include those identified by the respondent as having information related to the allegations. A recording or transcript of each interview must be made and provided to the interviewee for correction. The recording or transcript and any corrections provided by the interviewee should be maintained in the investigation documentation.
- B. Diligent pursuit of all significant issues and leads discovered that are determined relevant to the Investigation, including any evidence of additional instances of possible research misconduct, and continuing the investigation to completion;
- C. An evaluation of the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible; and
- D. A determination of whether a preponderance of the evidence establishes that:
 1. research misconduct, as defined in these Policies and Procedures, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion);
 2. the research misconduct is a significant departure from accepted practices of the relevant research community; and
 3. the respondent committed the research misconduct intentionally, knowingly, or recklessly. In addition, the RIO and the investigative committee shall use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation of research misconduct.

The committee shall also take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical.

5. Informing Respondent

The respondent shall be kept informed of the procedures to be followed and of the nature of the evidence presented, and shall be given the opportunity to appear before the investigative committee to respond to the allegation(s).

6. Documentation

The RIO shall use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the allegations. Further, the RIO will take steps to sufficiently secure documentation in order to protect confidentiality.

7. Investigation Report

The investigative committee, under the direction of the RIO, will produce a written Investigation Report, which shall include, at a minimum, the information set forth in Exhibit C. The investigative committee will provide the respondent an opportunity to review and comment on the draft Investigation Report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based. The investigative committee may provide the complainant a copy of the draft Investigation Report or relevant portions of that report. Any comments of the respondent or the complainant must be submitted within thirty days of the date on which the draft was provided to the commenter. The investigative committee shall consider all comments received before issuing its final report.

D. Administrative Actions

1. DO Determination

The DO will receive the Investigation Report and, after consulting with the RIO and/or other institutional officials, determine in writing the extent to which EMU accepts the conclusions in the Investigation Report, including whether sanctions will be imposed upon the respondent and, if so, what sanctions will be imposed. If this determination varies from the findings of the investigative committee, the DO will, as part of his/her/zir written determination, explain in detail the basis for rendering a decision different from the findings of the investigative committee. Alternatively, the DO may return the report to the investigative committee with a request for further fact finding or analysis. The determination of the DO will be final unless it is appealed to the President as provided in Section VI.G.

2. Actions Following the Conclusion of Investigation

When the final determination has been made by the DO:

- A. the RIO shall notify both the respondent and the complainant in writing and provide the respondent with an opportunity to appeal the ad hoc committee's decision, as affected by the DO's determination;
- B. the DO shall ensure that the final Investigation Report, the findings of the DO, and a description of any pending or completed administrative actions are provided to ORI and/or any other relevant federal agency or office as required by law;

- C. the DO shall determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case;
- D. the RIO shall ensure compliance with all notification requirements of funding or sponsoring agencies; and the RIO and the DO shall ensure that EMU cooperates with any further federal investigations, proceedings, or sanctions.

E. Interim Actions

At any stage in the process, the RIO shall have the authority to take interim action as needed, which may include additional monitoring of the research process and the handling of federal funds and equipment, reassignment of personnel or of the responsibility for the handling of federal funds and equipment, additional review of research data and results, and/or delaying publication. Interim action may be warranted if the RIO has reason to believe that:

- A. the health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- B. federal resources or interests are threatened;
- C. the research activities should be suspended;
- D. there is a reasonable indication of possible violations of civil or criminal law;
- E. federal action is required to protect the interests of those involved in the research misconduct proceeding;
- F. the research misconduct proceeding may be made public prematurely, so that federal action may be taken to safeguard evidence and protect the rights of those involved; or
- G. the research community or public should be informed.

VI. Other Considerations

A. Agency Notification

- A. In case of any of the circumstances identified in section V. E., above, the RIO shall notify ORI and/or any other relevant federal agency or office immediately as required by law.
- B. If the investigation process closes prematurely, based on the admission of guilt or settlement agreement with the respondent, or for any other reason, the RIO shall notify ORI and/or any other relevant federal agency or office in advance as required by law.

B. Confidentiality; Retaliation; Protection of Respondent's Reputation;

1. Confidentiality

Throughout the proceedings, the RIO and all participants in the proceedings shall, to the extent possible, limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and, except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO shall also have the option of keeping confidential the identities of witnesses. However,

- A. the identity of respondents and complainants will be disclosed to ORI pursuant to an ORI review of research misconduct proceedings; and
- B. administrative hearings of the federal Department of Health and Human Services will be open to the public.

2. Retaliation

Faculty, staff members and students may not retaliate in any way against complainants, witnesses, or committee members. Any alleged or apparent retaliation against complainants, witnesses or committee members shall be reported to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

3. Protection of Reputation

After the proceeding and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of good faith complainants, witnesses and committee members as well as persons alleged to have engaged in research misconduct but against whom no finding of research misconduct is made.

4. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the complainant's allegations were made in good faith, or whether a witness or committee member acted in good faith. If a complainant, witness or committee member fails to act in good faith, the DO will determine whether any administrative action should be taken against that person.

C. Minutes of Proceedings

Minutes of all proceedings shall be maintained by the RIO and provided as necessary to ORI and/or any other relevant federal agencies or offices as required by law.

D. Time Limit

The period of time for the initial Inquiry and the completion of the Investigation normally shall not exceed 180 days beyond the date when the allegation of research misconduct was first presented to the RIO.

E. Notices

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents promptly receive all the notices and opportunities to present their case provided for in these Policies and Procedures.

F. Participation

Participation by an EMU faculty or staff member in a research misconduct inquiry, investigation or remediation plan at the request of the RIO shall be considered part of that faculty or staff member's institutional responsibilities. All such participants must strictly abide by the confidentiality, anti-retaliation, and protection of reputation provisions as well as the guiding principles detailed above.

G. Appeals

Within thirty days of receipt of the investigation committee's final investigation report and the DO's determination, the respondent may appeal to either reverse or modify a finding of research misconduct and/or the sanctions imposed by filing a written notice of appeal with the President of EMU specifying in detail one or more of the following grounds of appeal:

1. Procedural error in the investigation process that materially affected the outcome;
2. Evidence that was not reasonably available during the investigation and would likely have materially affected the outcome; or
3. Sanctions that are seriously disproportionate to the gravity of the research misconduct.

The respondent must include with the notice of appeal filed with the President all documentation, information, and evidence to be considered in the appeal.

The President shall request from the RIO the investigation report and the DO's determination. The President, upon reviewing the investigation report, the DO's determination, and any

supporting evidence necessary, shall make the final decision to uphold, reverse, or modify the findings of research misconduct and/or the related sanctions, in writing, within 120 days of the filing of the appeal. The President, at his/her/zir sole discretion, shall have the authority to charge the investigating committee with additional investigatory actions as deemed necessary to reaching a decision on the appeal, but all activities and the final decision of the President shall be completed within 120 days of the filing of the appeal.

VII. Exhibit A: Summary of RIO's Responsibilities

Note: In the event of a conflict between this Exhibit A and the provisions of the Policies and Procedures for Responding to Allegations of Research Misconduct, the Policies and Procedures will control.

The RIO will:

- Consult confidentially with persons uncertain about whether to submit an allegation of misconduct;
- Receive allegations of research misconduct;
- Assess each allegation of research misconduct to determine whether it falls within the definition of research misconduct and warrants an Inquiry;
- As necessary, take interim action and notify ORI and/or any other applicable government special circumstances, as required by these Policies and Procedures;
- Sequester research data and evidence pertinent to the allegation of research misconduct and maintain it securely in accordance with these Policies and Procedures and applicable law and regulation;
- Provide confidentiality to those involved in the research misconduct proceeding;
- Notify the respondent and provide opportunities for him/her to review/comment/respond to allegations, evidence, and committee reports as provided in these Policies and Procedures;
- Inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;
- Appoint the chair and members of the Inquiry Panel (if desired) and Investigative Committee, ensure that those committees are properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
- Determine whether any person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including requiring recusal, to ensure that no person with such a conflict is involved in the research misconduct proceeding;
- In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other institutional members;

- Keep the DO and others who need to know apprised of the progress of the review of the allegation of research misconduct;
- Notify and make reports to ORI and/or any other government entity as required by these Policies and Procedures;
- During the research misconduct proceeding, ensure that respondents promptly receive all the notices and opportunities to present their case provided for in these Policies and Procedures.
- Ensure that administrative actions taken by the institution and ORI are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of those actions;
- Maintain records of the research misconduct proceeding and make them available to ORI and in sufficient detail to permit later assessment by ORI as required by law; and
- Take steps to maintain the confidentiality of ongoing research misconduct proceedings, and to protect or restore the reputation of any respondent in cases where no finding of research misconduct is made.

VIII. Exhibit B: Contents of Inquiry Report

- The name and position of the respondent;
- A description of the allegations of research misconduct;
- The applicable federal support, including, for example, grant numbers, grant applications, publications listing federal support;
- The basis for recommending whether or not the alleged actions warrant an investigation; and
- Any comments on the Inquiry Report by the respondent or the complainant.
- In addition, EMU must be prepared to provide the following information to the applicable federal agency on request:
 - These policies and procedures
 - The research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and
 - The charges for the investigation to consider

IX. Exhibit C: Contents of Investigation Report

- *Allegations.* Describe the nature of the allegations of research misconduct.
- *Federal support.* Describe and document the applicable federal support, including, for example, any grant numbers, grant applications, contracts, and publications listing federal support.
- *Institutional charge.* Describe the specific allegations of research misconduct for consideration in the investigation.
- *Policies and procedures.* If not previously provided to the applicable federal agency with the Inquiry Report, include these Policies and Procedures.

- *Research records and evidence.* Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed.
- *Statement of findings.* For each separate allegation of research misconduct identified during the investigation, provide a finding as to whether misconduct did or did not occur, and if so:
 1. Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
 2. Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent;
 3. Identify the specific federal support;
 4. Identify whether any publications need correction or retraction;
 5. Identify the person(s) responsible for the research misconduct; and
 6. List any current support or known applications or proposals for support that the respondent has pending with other federal agencies.
- *Comments.* Include and consider any comments made by the respondent and complainant on the draft Investigation Report.
- *Sanctions.* The committee may provide recommendations for the sanctions, if any, to be imposed; however, the DO will choose whether sanctions will be imposed, as well as the nature of the sanctions.
- *Maintain and provide records.* Maintain and provide to ORI upon request all relevant research records and records of the institution's research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.