

## 7A-2 MISCONDUCT IN RESEARCH, CREATIVE ACTIVITY, AND SCHOLARSHIP

Responsible Executive: Stacey Patterson, Vice President for Research  
Approving Official: Stacey Patterson, Vice President for Research  
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### I. INTRODUCTION

Florida State University is committed to upholding the highest standards of scientific rigor in research. Florida State University is committed to fostering an environment that promotes research integrity and the responsible conduct of research, discourages research misconduct, and deals promptly with allegations or evidence of possible research misconduct.

All institutional members are expected to conduct research with honesty, rigor, and transparency. Each institutional member is responsible for contributing to an organizational culture that establishes, maintains, and promotes research integrity and the responsible conduct of research.

Florida State University strives to reduce the risk of research misconduct, support all good-faith efforts to report suspected misconduct, promptly and thoroughly address all allegations of research misconduct, and seek to rectify the scientific record and/or restore researchers' reputations, as appropriate.

Research misconduct is contrary to the interests of Florida State University, the health and safety of the public, the integrity of research, and the conservation of public funds. Both the FSU and its institutional members have an affirmative duty to protect those funds from misuse by ensuring the integrity of all research conducted on behalf of Florida State University.

Florida State University is responsible for ensuring that these policies and procedures for addressing allegations of research misconduct meet the requirements of the PHS Policies on Research Misconduct (42 CFR Part 93, "the PHS regulation"). Florida State University will establish and maintain these policies and procedures, inform all institutional members about these policies and procedures, and make these policies and procedures publicly available. Florida State University is committed to following these policies and procedures when responding to allegations of research misconduct.

### II. POLICY

#### Applicability

This Policy applies to institutional members which includes an individual (or individuals) who is employed by, is an agent of, or is affiliated by contract or agreement with FSU. Institutional members may include, but are not limited to, officials, tenured and untenured faculty,

teaching and support staff, researchers, research coordinators, technicians, postdoctoral and other fellows, students, volunteers, subject matter experts, consultants, attorneys, employees or agents of contractors, subcontractors, or sub-awardees.

This Policy also applies to those who are involved in scholarship and creative activity which comes within the definition of research.

Cases of student misconduct involving research related to academic credit are resolved through the Academic Honor Policy but are not precluded from additional review under this Policy. In certain cases, the Student Conduct Code might also apply. FSU subcontractors, collaborators, and other third parties are expected to comply with their respective institutional policies and procedures for investigating misconduct allegations where such policies and procedures exist and apply. Such third-party policies shall comply with federal or other sponsors' regulations where applicable. When the other institution does not have an appropriate misconduct policy, FSU policies and procedures will apply. In the case of an external collaborator accused of Research Misconduct who is neither an FSU employee nor student, the Research Integrity Officer (RIO) may refer the allegation to the collaborator's employer, affiliated institution, or to oversight officials, in lieu of conducting a Research Misconduct proceeding at FSU. FSU will cooperate with any such proceeding at another institution consistent with funding agreements and applicable law.

This Policy does not address and specifically excludes fiscal improprieties, issues concerning the ethical treatment of human or animal subjects, authorship disputes, sexual harassment or discrimination, criminal matters, and general matters not within the definition of misconduct.

This document does not distinguish among disciplines. It is acknowledged, at the very least, that Activities may take on a different character from discipline to discipline. However, each discipline has its professional standards of conduct, and to the extent that fabrication, falsification, or plagiarism is rejected by those professional standards, this document applies to the activities of those disciplines as defined by those standards.

These policies and procedures apply to all funded and non-funded research, and though this policy may be more stringent than the PHS regulation, where there is direct conflict, the PHS regulation will prevail.

### **Time Limitations on Alleged Research Misconduct**

This policy applies to allegations of research misconduct occurring within six years of the date that FSU or the funding agency received the allegation, subject to the following exceptions. The six-year time limitation does not apply if:

1. The respondent continues or renews an incident of alleged research misconduct that occurred before the six-year time limitation and does so through the use of, re-publication of or citation to the portion(s) of the research record (e.g., processed data, journal articles, funding proposals, data repositories) alleged to have been fabricated, falsified, or plagiarized, for potential benefit of the respondent.
  - a. When the respondent uses, republishes, or cites to the portion(s) of the research record that is alleged to have been fabricated, falsified, or plagiarized, in submitted or published manuscripts, submitted grant applications, progress reports submitted to

funding components, posters, presentations, or other research records within six years of when the allegations were received by the funding agency or FSU, this exception applies.

- b. For research misconduct that appears subject to the subsequent use exception, a determination that the subsequent use exception does not apply must be documented. Such documentation must be retained for seven years in a secure manner in accordance with 42 CFR §93.318. 3
2. If FSU or a federal government sponsor of research determines that the alleged research misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public-this exception applies

### **Definitions**

For the purposes of this Policy, **Misconduct** means fabrication, falsification, or plagiarism in proposing, performing, reporting, or reviewing research, as well as scholarship and creative activity. It does not include honest error or differences of opinion.

- A. **Fabrication** is making up data or results and recording or reporting them, or fabrication or embellishment of research accomplishments, scholarly activity, or credentials (employment history, degrees obtained, publications, etc.).
- B. **Falsification** is manipulating materials, equipment, or processes, or changing or omitting data or results such that the research, scholarship, or creative activity is not accurately represented in the research record.
- C. **Plagiarism** is the appropriation of another person's ideas, processes, results, or words, without giving appropriate credit. (a) Plagiarism includes the unattributed verbatim or nearly verbatim copying of sentences and paragraphs from another's work that materially misleads the reader regarding the contributions of the author. It does not include the limited use of identical or nearly identical phrases that describe a commonly used methodology. (b) Plagiarism does not include self-plagiarism or authorship or credit disputes, including disputes among former collaborators who participated jointly in the development or conduct of a research project. Self-plagiarism and authorship disputes do not meet the definition of research misconduct. Serious deviation from accepted practices includes but is not limited to:
  1. Abusing confidentiality, including the use of ideas and preliminary data gained from:
    - i. Access to privileged information through the opportunity for editorial review of manuscripts submitted to journals; and
    - ii. Peer review of proposals being considered for funding by agency panels or by internal committees such as the Institutional Review Board (IRB), and the Institutional Animal Care and Use Committee (IACUC).
  2. Stealing, destroying, or damaging the research property with the intent to alter

the research record; and

3. Directing, encouraging, or knowingly allowing others to engage in fabrication, falsification, or plagiarism.

D. The destruction of, absence of, or failure to provide records adequately documenting the Research to the RIO.

A finding of misconduct requires that the misconduct be committed intentionally, knowingly, or recklessly; and that the allegation be proven by a preponderance of the evidence. Misconduct is a specific instance of impropriety within the broader domain of personal and professional conduct. Allegations of misconduct outside the scope of this Policy should be directed to the appropriate FSU official.

#### Other Relevant Definitions

- **Accepted practices of the relevant research community.** This term means those practices established commonly accepted professional codes or norms within the overarching community of researchers and institutions that apply funded awards.
- **Advocacy** means the presence of one individual (Advocate) to provide support and consultation to the Respondent throughout the misconduct proceedings. An advocate may include an individual such as a legal counselor or personal advisor whom the Respondent selects to serve in this role, and who may accompany him or her to meetings throughout the proceedings. An advocate will not be an active participant in the process, except for a union representative, but may request a recess/opportunity to caucus during the formal proceedings in order to provide advocacy and counsel as needed. Individuals may select a collective bargaining unit representative as an advocate on their behalf, if they so wish.
- **Agency** means a public or private agency or organization providing funds to support research, scholarship, or creative activity.
- **Allegation** means a disclosure of possible misconduct through any means of communication. The disclosure may be by written or oral statement or other communication to the Vice President for Research or other FSU official.
- **Assessment** means the process of evaluating an allegation of misconduct in order to determine whether the allegation falls within the definition of misconduct provided herein and is sufficiently credible and specific so that potential evidence of misconduct may be identified. This initial step is conducted by the RIO in order to determine if an inquiry is required. An inquiry must be conducted if the above stated criteria are met. If this is the case, the RIO in consultation with the Vice President for Research will launch the inquiry phase, including the convening of any committee, if applicable.
- **Complainant** is an individual(s) who in good faith makes an allegation of misconduct.
- **Conflict of interest or unresolved conflict (bias)** for any FSU official or any participant in a Research Misconduct Proceeding means a past or continuing personal, professional, or financial relationship with another participant in the Research Misconduct proceeding which creates an unmanageable (as determined by the VPR/IDO and/or RIO) bias for or

against any Respondent, or which the participant him/herself personally believes renders him/her unable to participate in a manner that is thorough, competent, objective, and fair.

- **Evidence** means anything offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact. Evidence includes documents, whether in hard copy or electronic form, information, tangible items, and testimony.
- **Good faith** as applied to (a) a Complainant or witness means having a belief in the truth of one's allegations or testimony that a reasonable person in the Complainant or witness' position could have based on the information known to the Complainant or witness at the time. An allegation or cooperation with a misconduct proceeding is not in good faith: (1) if it is made with knowing or reckless disregard for information that would negate the allegation or testimony, or (2) if his/her acts or omissions are dishonest or influenced by a conflict of interest with those involved in the misconduct proceeding.  
Good faith as applied (b) to a committee member means cooperating with the misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping FSU meet its responsibilities. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the misconduct proceeding.
- **Inquiry** preliminary information-gathering and preliminary fact-finding that meets the criteria institutional, State, and Federal policy.
- **Institution** means Florida State University.
- **Institutional Deciding Official (IDO)** means the FSU official who makes final determinations on allegations of research misconduct and any institutional actions. The same individual cannot serve as the Institutional Deciding Official and the Research Integrity Officer (RIO). The IDO at FSU is the Vice President for Research or his/her designee.
- **Institutional member** and members means an individual (or individuals) who is employed by, is an agent of, or is affiliated by contract or agreement with an institution. Institutional members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, technicians, postdoctoral and other fellows, students, volunteers, subject matter experts, consultants, attorneys, or employees or agents of contractors, subcontractors, or sub-awardees.
- **Institutional record** comprises: (a) The records that the institution compiled or generated during the research misconduct proceeding, except records the institution did not consider or rely on. These records include but are not limited to (1) documentation of the assessment; (2) if an inquiry is conducted, the inquiry report and all records (other than drafts of the report) considered or relied on during the inquiry,

including, but not limited to, research records and the transcripts of any transcribed interviews conducted during the inquiry, information the respondent provided to the institution, and the documentation of any decision not to investigate; (3) if an investigation is conducted, the investigation report and all records (other than drafts of the report) considered or relied on during the investigation, including, but not limited to, research records, the transcripts of each interview conducted, and information the respondent provided to the institution; (4) decision(s) by the Institutional Deciding Official, such as the written decision from the Institutional Deciding Official; (5) the complete record of any institutional appeal; (b) a single index listing all the research records and evidence that the institution compiled during the research misconduct proceeding, except records the institution did not consider or rely on; and (c) a general description of the records that were sequestered but not considered or relied on.

- **Intentional** or **intentionally** means having the intent to perform an act even when the actor does not desire the consequences that result.
- **Investigation** means the formal development of a factual record and the examination of that record leading to: (1) a decision not to make a finding of misconduct, or (2) a recommendation for a finding of misconduct which may include a recommendation for other appropriate actions, including administrative actions.
- **Knowing** or **knowingly** means that a person, with respect to information, has actual knowledge of the information and either (a) acts in deliberate ignorance of the truth or falsity of the information; or (b) acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.
- **PHS support** means PHS funding, or applications or proposals for PHS funding, for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or training, that may be provided through funding for PHS intramural research; PHS grants, cooperative agreements, or contracts; subawards, contracts, or subcontracts under those PHS funding instruments; or salary or other payments under PHS grants, cooperative agreements, or contracts..
- **Preponderance of the evidence** means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.
- **Reckless** or **recklessly** means that Research Misconduct is committed with callous disregard as to whether the representation is true or requires attribution to another. Callous disregard may be shown by evidence that the Respondent was aware of the probable falseness or misleading nature of the representation or entertained his/her own serious doubts about the accuracy of the representation. Awareness of the probable falseness or misleading nature of a representation may be inferred from evidence of obvious reasons to doubt the accuracy of the representation where the Respondent did not take reasonable steps to dispel those doubts.
- **Record of Research, Scholarship, or Creative Activity** means the Record of data or results that embody the facts resulting from the Activity, including, but not limited to, applications for funding (proposals), laboratory records (both physical and electronic), progress reports, abstracts, theses, oral presentations, internal reports,

journal articles, photographs, videos, and any documents and materials provided to or obtained by a government agency or an institutional official in the course of the misconduct proceeding.

- **Regulation** means any regulation applicable to a sponsored agreement or to the handling of misconduct allegations related to Activities performed under it.
- **Research** means a systematic experiment, study, evaluation, demonstration, or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) by establishing, discovering, developing, elucidating, or confirming information
- **Research Integrity Officer (RIO)** means the FSU official responsible for: (1) assessing allegations of misconduct to determine if they fall within the definition of misconduct and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of misconduct may be identified; (2) overseeing inquires and investigations; and (3) the other responsibilities described in this document, the implementing [Procedures](#), or as directed by the VPR/IDO.
- **Respondent** means the person against whom an allegation of misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one Respondent in any inquiry or investigation.
- **Retaliation** means an adverse action taken against a Complainant, witness, or committee member by an institution or one of its members in response to a good faith allegation of misconduct, or in response to good faith cooperation with a misconduct proceeding.
- **Suspension and Debarment Official** or SDO means the HHS official authorized to impose suspension and debarment, which are the actions that Federal agencies take to disqualify persons deemed not presently responsible from doing business with the Federal Government.

## **Roles, Rights, and Responsibilities**

### **General Responsibilities**

To the extent possible, FSU will limit disclosure of the identity of respondents, complainants, and witnesses while conducting the research misconduct proceedings to those who need to know, inform all institutional members about these policies and procedures, and make these policies and procedures publicly available. This limitation on disclosure no longer applies once FSU has made a final determination of research misconduct findings. FSU will respond to each allegation of research misconduct in a thorough, competent, objective, and fair manner. FSU will take all reasonable and practical steps to ensure the cooperation of respondents and other institutional members with research misconduct proceedings, including, but not limited to, their providing information, research records, and other evidence.

FSU agrees to cooperate with Office of Research Integrity (ORI) during any research misconduct

proceeding or compliance review, including addressing deficiencies or additional allegations in the institutional record if directed by ORI and to assist in administering and enforcing any HHS administrative actions imposed on institutional members. FSU may also take steps to manage published data or acknowledge that data may be unreliable.

### **Institutional Deciding Official (VPR/IDO)**

The IDO serves as the Institutional Deciding Official (IDO) for FSU. The IDO ensures the implementation of this Policy and oversees the [Procedures Concerning Allegations of Misconduct in Research, Creative Activity and Scholarship \(Procedures\)](#) ensuring that the Procedures are promptly applied by the RIO when allegations of misconduct are reported. In accordance with [Procedures](#), the IDO, in consultation with other institutional officials as appropriate, may determine and invoke sanctions or disciplinary actions imposed as a result of the investigation committee's findings and the IDO's final decision.

The Institutional Deciding Official (IDO) makes the final determination of research misconduct findings. The IDO cannot serve as the RIO. The IDO documents their determination in a written decision that includes whether research misconduct occurred, and if so, what kind and who committed it, and a description of the relevant actions FSU has taken or will take. The IDO's written decision becomes part of the institutional record.

### **Research Integrity Officer**

The Research Integrity Officer (RIO) has primary responsibility for applying this Policy and the [Procedures](#). The RIO serves as the FSU's independent and objective agent in misconduct proceedings. The RIO is appointed by and reports directly to the IDO. A complete list of RIO responsibilities is provided in the [Procedures](#). FSU may choose to have the RIO or another designated institutional official conduct the inquiry in lieu of a committee, and, if needed, this individual may utilize one or more subject matter experts to assist them in the inquiry.

### **Complainant**

The complainant will make allegations in good faith, as having a reasonable belief in the truth of one's allegation or testimony, based on the information known to the complainant at the time. The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry and investigation. The complainant brings research misconduct allegations directly to the attention of an institutional or any funding agency official through any means of communication.

The complainant may submit evidence to the RIO for possible dissemination to a committee. The complainant may have an opportunity, if requested by an inquiry or investigation committee, to appear before the committee.

### **Respondent**

The respondent is the individual against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding. The respondent has the burden of going forward with and proving, by a preponderance of evidence, affirmative defenses raised. The respondent's destruction of research records documenting the questioned research is

evidence of research misconduct where a preponderance of evidence establishes that the respondent intentionally or knowingly destroyed records after being informed of the research misconduct allegations. The respondent's failure to provide research records documenting the questioned research is evidence of research misconduct where the respondent claims to possess the records but refuses to provide them upon request.

The respondent will not be present during the witnesses' interviews but will be provided a transcript of the interview after it takes place. The respondent will have opportunities to (a) view and comment on the inquiry report, (b) view and comment on the investigation report, and (c) submit any comments on the draft investigation report to FSU within 30 days of receiving it.

If admitting to research misconduct, the respondent will sign a written statement specifying the affected research records and confirming the misconduct was falsification, fabrication, and/or plagiarism; committed intentionally, knowingly, or recklessly; and a significant departure from accepted practices of the relevant research community.

The Respondent is entitled to:

- (1) A good faith effort from the RIO to notify the Respondent in writing at the time of or before beginning an inquiry and receive a copy of the FSU's policies and procedures on misconduct, as well as applicable external agency misconduct policies.
- (2) An opportunity to be interviewed by and present evidence to the inquiry or investigation committee, to review transcripts of any recordings made during the interview and to request corrections to those transcripts, and have the corrected transcript included in the record of the proceeding;
- (3) Receive a copy of the draft inquiry report and provided an opportunity to comment, be notified that any comments must be submitted within five (5) business days of the date on which the copy was submitted to the Respondent by the RIO, and that any comments provided by the Respondent are reflected in and/or attached to the final committee report.
- (4) Be notified in writing of the outcome of the inquiry;
- (5) Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins, and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;
- (6) Be notified that the investigation may lead to disciplinary action and that the Respondent has a right to request union representation during questioning that may reasonably be expected to result in disciplinary action;
- (7) Have interviewed during the inquiry or investigation any witness who has been reasonably identified by the Respondent as having information on relevant aspects of the proceedings, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of

investigation;

- (8) Receive a copy of the draft investigation report and an opportunity to comment; be notified that any comments must be submitted within five (5) business days of the date on which the copy was submitted to the Respondent by the RIO, and that the Respondent's comments are reflected in and/or attached to the final committee report; and
- (9) Have an Advocate present (at Respondent's own expense) at meetings related to the misconduct proceedings. The presence of such Advocate will be for consultation and support; the Advocate will not be an active participant in the process and shall not advocate for the Respondent at such meetings, except for a union representative. Any participant in a formal proceeding may request a reasonable recess/opportunity to caucus during the proceedings in order to allow for advocacy and counsel as needed.

### Deans

The Deans ensure implementation of the Policy in their respective colleges. The Deans shall report knowledge of allegations of misconduct to the IDO. The Deans shall ensure cooperation of Respondents and other individuals in their respective colleges in instances of allegations of misconduct, including, but not limited to, the sequestration of Records and/or other relevant information and documentation relative to the allegations of misconduct. The Dean plays an important role in the selection of committee members, in accordance with the [Procedures](#).

### Witnesses

Witnesses are people whom FSU has reasonably identified as having information regarding any relevant aspects of the investigation. Witnesses provide information for review during research misconduct proceedings. Witnesses will cooperate with the research misconduct proceedings in good faith and have a reasonable belief in the truth of their testimony, based on the information known to them at the time.

### Committee

Committee members, appointed by the RIO, are experts who act in good faith to cooperate with the research misconduct proceedings by impartially carrying out their assigned duties for the purpose of helping FSU meet its responsibilities. The committee will have relevant scientific expertise and be free of real or perceived conflicts of interest with any of the involved parties.

The Inquiry Committee, or RIO acting at the direction of Florida State University, may conduct inquiry proceedings. They will determine whether an investigation is warranted, documenting the decision in an inquiry report.

If an investigation is warranted, they will determine whether or not the respondent(s) engaged in research misconduct and document the decision in the investigation report. They will receive and consider all respondent and/or complainant comments related to the inquiry report(s) and further document all proceedings and consideration in the investigation

report(s). During an investigation, committee members participate in recorded interviews of each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent(s).

An investigation into multiple respondents may convene with the same investigation committee but there will be separate investigation reports and research misconduct determinations for each respondent. Committee members may serve for more than one investigation, in cases with multiple respondents. Committee members may also serve for both the inquiry and the investigation.

### Inquiry/Investigation Committee Chair

The Committee Chair serves as the individual who takes the lead in drafting the committee report based on the committee's findings. Working with the RIO, the Committee Chair handles the compilation of comments from the other committee members into the final committee report and ensures the report is distributed to the committee members for final signature. The elements of the committee report must be in accordance with the required elements outlined in the [Procedures](#). The Committee Chair ensures that the Respondent is afforded all opportunities provided by this policy including the opportunity to comment, that the Respondent's comments are considered by the committee, and that the Respondent's comments are reflected in and/or attached to the final committee report.

### **General Principles**

#### Responsibility to Report Misconduct

To the extent possible, consistent with a fair and thorough review of an allegation, disclosure of an allegation should be limited to those with a need to know. Therefore, a suspected instance of misconduct is to be reported immediately to the IDO. The IDO shall notify the RIO and any other FSU administrator he or she deems appropriate. FSU has an anonymous [hotline](#), which is a simple, anonymous way to confidentially report activities that involve certain improper conduct or violations of FSU policies and procedures, regulations, or state and federal laws.

If a witness is unsure whether a suspected incident falls within the definition of misconduct, he or she may contact the RIO to informally discuss the suspected misconduct. If the circumstances described by the individual do not meet the definition of misconduct, the RIO may refer the individual or allegation to other offices or officials with responsibility for resolving the problem as necessary and appropriate. No retaliatory action will be taken against anyone for reporting or inquiring in good faith about potential breaches of FSU policies or seeking guidance on how to handle suspected breaches.

#### Responsibility of the University to Verify and Respond to Credible Allegations

Because Florida State University values the credibility of its institutional activities and the integrity of its community, all allegations of misconduct are evaluated to determine whether there is specific and credible information on which to act. Just as FSU protects Complainants against retaliation, FSU is equally concerned about malicious or frivolous allegations made

against its employees and students. FSU performs a careful assessment of all allegations brought to the attention of institutional officials.

The IDO and the RIO shall consider and act upon any specific and credible information which comes to his or her attention indicating that misconduct may have occurred. The RIO will ensure that the allegation assessment, inquiry, and investigation are completed in a timely, objective, thorough, and competent manner; and that reasonable precautions are taken to avoid bias and conflict of interest on the part of those involved in conducting the inquiry and investigation.

#### Cooperation with Inquiries and Investigations

Institutional Members covered under this Policy and its implementing [Procedures](#) are required to cooperate fully with any Research Misconduct proceeding, whether conducted under this policy, by oversight officials, or otherwise pursuant to a sponsored research agreement. Failure or refusal to comply with this obligation may constitute “adequate cause” or other grounds for disciplinary action, including termination of employment or dismissal of a student.

Employees have an obligation to provide relevant information to the RIO or FSU officials on misconduct allegations. The RIO or other institutional officials may determine it necessary to sequester original records and materials relevant to the allegation as described in the [Procedures](#).

The unavailability of a Respondent for any reason, including voluntary or involuntary separation from FSU, should not delay the initiation or continuation of a Research Misconduct proceeding. In exceptional cases (for example, grave illness of the Respondent or among the Respondent’s immediate family), the IDO may modify application of this policy upon advice of the RIO and/or other FSU officials.

If the Respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the final report the Respondent's failure to cooperate and its effect on the evidence.

#### Requirements for Findings of Misconduct

A finding of misconduct requires that:

1. There is a reasonable basis for concluding that the allegation falls within the FSU’s definition of misconduct; and
2. That the misconduct was committed intentionally, knowingly, or recklessly; and
3. That the allegation was proven by a preponderance of the evidence.

#### Protection of Complainant, Witnesses, and Committee Members

The RIO monitors the treatment of individuals who bring allegations of misconduct and those who cooperate with inquiries or investigations. FSU ensures that these individuals are not retaliated against in employment or other status at FSU and the RIO reviews instances of alleged retaliation for appropriate action. Individuals should immediately report any alleged or apparent retaliation to the RIO. FSU also strives to protect, to the maximum extent possible and allowable by law, the privacy of those who report misconduct in good faith.

If the Complainant requests anonymity, FSU, to the extent allowed by law, will make

reasonable efforts to honor the request, consistent with a thorough, competent, objective, and fair misconduct proceeding. It is important to recognize, however, that because of the standards of due process, FSU's own policies and procedures and Florida's Open Records law, there may be situations that cannot proceed under conditions of anonymity. Under federal regulations, state law and its own good business practices, FSU undertakes diligent efforts to protect the positions and reputations of those individuals who make allegations in good faith, to the extent allowed by law.

#### Protection of Respondent

Inquiries and investigations are conducted in a manner that ensures fair treatment to the Respondent and confidentiality, to the extent possible and allowable by law, without compromising public health and safety or thoroughly carrying out the needs of an inquiry and/or investigation. Inquiries and investigations are handled promptly and expeditiously with full attention given to the rights of all individuals involved.

#### Confidentiality

Anyone involved in reporting, reviewing, or evaluating an allegation of Research Misconduct under this policy must make every reasonable effort to maintain confidentiality to the extent permitted by law and FSU policy. Disclosure of the identity of Complainants, Respondents, witnesses, or research subjects is limited to people with a "need to know" the disclosed information in order to conduct FSU business, including conducting a thorough, competent, objective and fair Research Misconduct Proceeding. Any records of evidence from which participants in a Research Misconduct proceeding (or Research subjects) might be identified should be treated as confidentially as allowable under law.

**Required disclosures:** Limited disclosure of an Allegation may be necessary for the effective administration of the department, college, or Research office, or to comply with regulations or contractual obligations. For example, federal regulations and other funding agreements may require the FSU to report the status of allegations of Research Misconduct. Limited disclosure may also be required as part of FSU sequestration efforts, in order to comply with health and safety rules or regulations, or to protect against physical or other damage to a person or FSU property. Disclosure could also be required under Florida law.

**Permitted disclosures:** With advice of University Counsel, the IDO may disclose limited information about an Allegation or evidence in a Research Misconduct proceeding in order to protect FSU from exposure to legal claims or other possible harm. In such a case, FSU will limit any such disclosures as narrowly as may be feasible under the law and circumstances.

**Reporting a concern about possible improper disclosure:** The IDO and RIO will review any allegation that this confidentiality requirement has been breached. Violation of this requirement may constitute grounds for disciplinary action, including termination, depending on the circumstances, the nature, and the impact of the violation.

#### Interim Administrative Actions

Throughout the misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, sponsor funds, and equipment, or the integrity of

research, creative activity, or scholarship processes. In the event of such a threat, the RIO will, in consultation with other FSU officials, and the pertinent agency as appropriate, take interim action to protect against any such threat. Interim action might include additional monitoring of the processes and the handling of sponsor funds and equipment, reassignment of personnel or of the responsibility for the handling of sponsor funds and equipment, additional review of Activity data and results or delaying publication. The RIO shall, at any time during a misconduct proceeding, notify pertinent external agencies immediately if he/she has reason to believe that any of the following conditions exist:

- Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- Sponsor resources or interests are threatened;
- Project activities should be suspended;
- There is a reasonable indication of possible violations of civil or criminal law;
- Federal action is required to protect the interests of those involved in the misconduct proceeding;
- The misconduct proceeding may be made public prematurely and federal sponsor action may be necessary to safeguard evidence and protect the rights of those involved; or
- The public should be informed.

### **Additional Issues**

FSU mechanisms are currently in place to address disputes centering on questions of authorship and data utilization, financial improprieties, human research subjects, and the use of animals in research. Although such cases will be addressed by the appropriate governing bodies for compliance with relevant regulations and ethical standards, they are not precluded from additional review under the procedures governing misconduct under this Policy.

If anyone involved in an inquiry or subsequent investigation becomes aware of a possible violation of criminal or civil law, he or she shall inform the VPR/IDO. If the VPR/IDO agrees that reasonable indications of possible criminal conduct exist, he or she shall, within 24 hours, inform the sponsoring agency (if required) and appropriate FSU and/or law enforcement officials.

### **Implementing Procedures**

The *Procedures Concerning Allegations of Misconduct in Research, Creative Activity and Scholarship*, which implement this Policy, are published on FSU's Research Integrity, Security, and Ethics (RISE) website at <https://www.research.fsu.edu/research-compliance/research-misconduct/>.

## **III. Legal Support, Justification, and Review of this Policy**

Federal Research Misconduct Policy

45 CFR Part 689, National Science Foundation Research Misconduct

42 CFR Part 50, Subpart F and Part 93, Public Health Service Policies on Research Misconduct

Fla. Stat. 1004.22

These policies will be reviewed periodically and updated when changes are necessary.

                  /s/ Stacey Patterson                  

Vice President for Research