



ADMINISTRATIVE POLICY STATEMENT

Policy Title: Misconduct in Research, Scholarship, and Creative Activities

APS Number: 1007

APS Functional Area: **ACADEMIC**

Brief Description:	Provides a fundamental framework to respond to allegations of misconduct in research, scholarship, and creative activities.
Effective:	July 1, 2011
Approved by:	President Bruce D. Benson
Responsible University Officer:	Associate Vice President and Academic Affairs Officer
Responsible Office:	Academic Affairs
Policy Contact:	Associate Vice President and Academic Affairs Officer 303-860-5614
Supersedes:	Misconduct in Research and Authorship
Last Reviewed/Updated:	July 1, 2011
Applies to:	University-wide

Reason for Policy: To comply with Regent Law, Article 5.E.5

I. INTRODUCTION

The University of Colorado, herein referred to as the "University," is committed to excellence in our research, scholarship, and creative activities and conducts these activities according to the highest ethical standards of honesty and integrity. This commitment extends to all members of the University community and is embodied in all aspects of our work. Through the conduct of our University work, we maintain an environment that fosters adherence to these ethical standards and provides avenues to respond to any deviation from these standards.

The Board of Regents of the University have set forth these principles in the Laws of the Regents and state that, "the faculty, under administrative supervision and in accordance with these *Laws* and the laws of the State of Colorado, shall have the principal responsibility for originating policy in the areas of: . . . academic ethics, including development of policies and procedures," Article 5.E.5.

Allegations of misconduct in research, scholarship, and creative activities differ in any number of ways and no single, detailed course of action is possible or desirable. Thus, this policy provides the fundamental framework to respond to allegations of misconduct in research, scholarship, and creative activities. Campus officials shall work within this framework to ensure consistency in practice among the campuses.

The University receives research funding from the U.S. Government and federal laws require recipients to have a policy and implementing procedures on misconduct in research, scholarship, and creative activities. When implementing our policy, the University will conform to these federal laws. In some cases, the federal funding agency may also have the authority to initiate its own investigation and the University will cooperate fully in any such investigation.

The University has academic dishonesty procedures that generally take precedence for allegations involving student course work.¹

SCOPE: This policy covers any person who, at the time of the alleged misconduct in research, was employed by, was an agent of, or was affiliated by contract or agreement with the University and any person who is alleged to have committed research misconduct prior to his or her employment, agency or affiliation with the University provided the campus faculty committee on research misconduct determines that such allegations of research misconduct have the potential to affect the reputation of the University.

II. POLICY STATEMENT

A. Reporting

University employees have an obligation to report observed or suspected Misconduct in Research to the designated campus Research Integrity Officer. Except to the extent necessary to comply with reporting requirements or state law, or to defend any legal action which might be asserted against the University, the Research Integrity Officer will maintain confidential any such discussions or consultations regarding concerns of possible Misconduct in Research.

B. Cooperation with Misconduct in Research Proceedings

Members of the University community are obligated to cooperate with and provide evidence relevant to an allegation of Misconduct in Research to the Research Integrity Officer, the faculty committee on research misconduct, and other institutional officials. Any member of the University community who fails or refuses to cooperate with the inquiry or investigative process shall be reported to the appropriate dean or vice-chancellor; such non-cooperation may constitute the basis for disciplinary action. Nothing here will be interpreted in such a way as to infringe on an employee's right to invoke the protection of the Fifth Amendment of the U.S. Constitution with regard to self-incrimination.

C. Non-Retaliation

The University prohibits retaliation of any kind against Complainants, witnesses, or committee members. Employees should immediately report any alleged or apparent retaliation to the Research Integrity Officer or to the CU Ethics Line.

D. Confidentiality

The University shall take reasonable steps to maintain the confidentiality of all allegations, inquiries, investigations, resolutions and any documentation and communications related to these activities. The Research Integrity Officer and the faculty committee on research misconduct shall request all persons

¹ Students are covered under this policy if the work in question meets the definition of research. As such, most (but not all) course-related work is covered by student disciplinary/honor code policies, rather than by this policy. Student theses and dissertations are generally covered by this policy. Work conducted by students in their role as a CU employee is covered by this policy.

involved maintain confidentiality during the inquiry and investigative processes, including through the use of confidentiality agreements.

During the course of any inquiry or investigation, the University may disclose information to the extent required by law, or, if the seriousness of the alleged Misconduct in Research warrants disclosure pending the outcome of the inquiry or investigation. Without limitation such instances include where the disclosure is necessary: (1) to prevent an immediate health hazard; (2) to protect the University's resources or reputation; (3) to protect the interests of the academic community; (4) to protect any person's resources or reputation; (5) to comply with the University's obligations to any state or federal agency, or (6) to correct misinformation made available to the public about the alleged Misconduct in Research and the University's response.

Notwithstanding any other provision in this Administrative Policy Statement or the campus specific procedures, the University shall disclose any information reasonably necessary for it to comply with state and federal law.

E. Conflict of Interest or Bias

Each campus shall ensure its faculty committee on research misconduct conducts proceedings on an impartial basis. Committee members are expected to reveal any actual or potential conflicts of interest to the committee including: (1) previous personal knowledge of or involvement in the matter, forming the basis of the allegation of Misconduct in Research, (2) close, personal, professional or financial relationship with the Complainant, Respondent, or any other participant in the inquiry or investigative processes. The campus specific procedures shall address management of such conflicts.

F. Education of the University Community

Each campus shall ensure its deans, directors, chairs, and graduate advisors shall be reminded annually of this Administrative Policy on Misconduct in Research, Scholarship, and Creative activities and of the campus specific procedures. The University shall also inform all faculty, students, and staff of (1) the need for integrity in research performance and (2) the role of the faculty committee on research misconduct.

CONSEQUENCES OF A FINDING OF MISCONDUCT IN RESEARCH

If misconduct in Research is found to have occurred, responsible individuals may face a range of appropriate sanctions, from warning to dismissal. Disciplinary action will be taken only in accordance with applicable University rules and procedures. The sanction(s) must correspond to the severity of the confirmed deviation. For example, misconduct that involves classified staff may necessitate resorting to procedures and sanctions established by the State Personnel System. Misconduct in Research that involves students may result in disciplinary action taken in accordance with appropriate campus policies. Misconduct in Research involving faculty may give rise to sanctions that require involvement of the University's Privilege and Tenure Committee.

Sponsors or law enforcement officials may also take action against either individuals or the University itself, if Misconduct in Research is established. These actions may include, but are not limited to, letters of reprimand, suspension of an active award, and/or debarment from future awards. The federal agencies may choose to proceed in their own investigation, or may decide to act upon the University's findings.

If an allegation of Misconduct in Research is not confirmed, the University will make reasonable efforts to restore the reputation of the individual alleged to have engaged in the Misconduct in Research.

III. DEFINITIONS

A. Research

The University broadly defines *research, scholarship, and creative activities* to include all forms of scholarship and creative activities within the responsibilities of faculty, staff, or students that are designed as original works or are intended to contribute to generalizable knowledge in a field of academic inquiry. The terms *research* and *research, scholarship, and creative activities* are used interchangeably throughout this policy.

B. Misconduct in Research

Misconduct in Research means:

1. Fabrication, falsification, plagiarism and other forms of misrepresentation of ideas, and other serious deviations from accepted practices in proposing, carrying out, reviewing, or reporting results from research;
2. Failure to comply with established standards regarding author name on publications;
3. Retaliation of any kind against a person who, in good faith, reported or provided information about suspected or alleged misconduct in research.
4. Misconduct in research does not include honest error or differences of opinion.

IV. ROLES AND RESPONSIBILITIES

A. Chancellor

On each campus, the chancellor is responsible for overseeing the implementation of this policy. The chancellor shall designate an institutional official who will be responsible for developing more specific written procedures for supplementing this policy.

B. Complainant

The Complainant is the individual who submits a written allegation of misconduct in research to the campus research integrity officer or faculty committee on research misconduct. The University requires any person who makes an allegation of misconduct in research to proceed in good faith and with a reasonable basis for believing that misconduct in research occurred.

C. Deciding Official

The Deciding Official is the institutional official who receives the investigative report from the faculty committee on research misconduct and determines the appropriate institutional response. Each campus shall designate a senior level administrator, e.g., provost, as the Deciding Official but the Deciding Official shall not be the same person as the Research Integrity Officer.

D. Faculty Committee on Research Misconduct

University faculty are responsible for emphasizing the importance of ethical conduct in research to staff, students and others who are under their supervision and for providing reasonable supervision to minimize the opportunities for Misconduct in Research. Each campus shall convene a faculty committee to promote exemplary ethical standards of research conduct, to publicize this Administrative Policy Statement and campus specific procedures for reporting Misconduct in Research, to receive allegations of misconduct, to ensure thorough, fair and expeditious proceedings for the evaluation of allegations, and to recommend possible disciplinary action, policy changes or other actions to remedy the misconduct and to prevent similar misconduct in the future.

E. Research Integrity Officer

Each campus shall appoint the Research Integrity Officer who shall be responsible for implementing this Administrative Policy Statement and the campus specific procedures. Each campus shall specify the duties of the Research Integrity Officer which may include but not be limited to advising any person who is considering whether to submit an allegation of Misconduct in Research, providing guidance on the requirements of the Administrative Policy Statement and campus specific procedures, coordinating the work of the faculty committee on research misconduct, and administering the campus specific procedures.

Throughout the research misconduct inquiry and investigation, the Research Integrity Officer will monitor the proceedings to determine if there is any threat or harm to public health, federal funds and equipment, or the integrity of the federally-supported research process. In the event of such a threat, the Research Integrity Officer will, in consultation with other institutional officials and the funding agency, take appropriate interim action to protect against any such threat.

F. Respondent

The Respondent is the person against whom an allegation of Misconduct in Research has been made. The campus specific procedures shall describe the rights held by the Respondent that the faculty committee on research misconduct shall preserve during any process conducted pursuant to this Administrative Policy.

G. University Counsel

The faculty committee on research misconduct, the Research Integrity Officer and the Deciding Official can seek advice and counsel from the Office of the University Counsel as it deems necessary. The Research Integrity Officer shall notify the Office of University Counsel of the meetings of the faculty committee on research misconduct and provide minutes of such proceedings. University Counsel may send a representative to attend meetings of the faculty committee on research misconduct or any subcommittee if the University Counsel considers that such attendance is in the best interests of the University.

V. IMPLEMENTATION

A. Standing Committees

Faculty on each campus shall establish a standing committee to carry out this policy. The size and composition of the committees shall be established by the appropriate faculty governing body in consultation with the campus designated administrative leader. Members should serve staggered and multi-year terms to assure consistency and continuity of actions.

B. Standing Committee's Role

Each standing committee shall:

1. Take appropriate action to maximize awareness of the need to avoid activities that might be misinterpreted as Misconduct in Research, encourage each unit to develop and promulgate standards for authorship, and otherwise enhance ethics in research related activities.
2. Be widely recognized on each campus as the group to whom suspected Misconduct in Research is to be reported.

3. Receive allegations that the Research Integrity Officer or designee has determined to warrant an inquiry of Misconduct in Research.²
4. Ensure that an appropriate balance is struck between protecting the rights of the Respondent and protecting the Complainant from possible retaliation. The course of action must be suitable to the circumstances of each individual case.
5. Promptly report to the appropriate dean, vice chancellor and university counsel any allegation that is judged to be without reasonable basis in fact.
6. Promptly notify the appropriate dean and vice chancellor, as well as the appropriate regulatory agencies and/or sponsor³ at any time during a Misconduct in Research proceeding if it has reason to believe that any of the following conditions exist:
 - a. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
 - b. Resources or interests are threatened.
 - c. Research activities should be suspended.
 - d. There is reasonable indication of possible violations of civil or criminal law.
 - e. Federal action is required to protect the interests of those involved in the Misconduct in Research proceeding.
 - f. The research institution believes the Misconduct in Research proceeding may be made public prematurely so that the appropriate regulatory agency may take appropriate steps to safeguard evidence and protect the rights of those involved.
 - g. The research or academic community or public should be informed.
7. Establish operating rules and procedures to carry out this policy, including the development of operating procedures for investigative committees that may be created.
8. Take appropriate steps to ensure that all persons adhere to established operating rules and procedures.

C. Campus Procedures

Each campus shall adhere to federal regulations mandated by the appropriate agencies and/or sponsors for Misconduct in Research, scholarship, and creative activities and with guidelines established in this policy. At a minimum, the procedures should address:

1. The inquiry and investigative processes that comply with the requirements of the requirements of NSF and/or PHS.
2. Identification of campus Research Integrity Officer.
3. How the campus Research Integrity Officer will receive allegations of Misconduct in Research, scholarship, and creative activities.
4. The committee's membership and selection process.
5. The processes to determine if an allegation warrants an inquiry.
6. The inquiry process.
7. The investigation process.
8. The reporting and recommendation process.
9. The process by which an individual may appeal a decision.

² Allegations of "failure to meet other material legal requirements of research" and of "failure to comply with established standards regarding author names on publications will be investigated through the Misconduct in Research, scholarship, and creative activities process only if there is not an alternative investigative process to address such misconduct.

³ Timing of notifications must adhere to appropriate regulatory agencies and/or sponsor requirements.

10. The campus training and advice about responsible conduct of research.
11. Periodic review of the process by the campus.
12. The procedures for ensuring intra-campus coordination among all organizations with a role in oversight of research as may be applicable: the employee, his/her department or academic unit, sponsored programs office, research committees, Technology Transfer, and appropriate University Officers.
13. The process by which the campus will make available publicly its implementation procedures for this policy.
14. The enforcement mechanisms and for sanctions process.
15. In all cases, the campus will comply in substance with sponsor requirements.

Misconduct in Research, scholarship, and creative activities does not include honest error or honest differences in interpretations or judgments of data. Where a person's conduct otherwise constitutes Misconduct in Research, however, the burden of proof lies with that person to establish by a preponderance of the evidence that his or her conduct represents honest error or differences in interpretation.

If the allegations of Misconduct in Research relate to Federally-funded research and the Federal funding agency's definition of Misconduct in Research is more limited than the definition set forth here, the Federal funding agency's definition of research misconduct shall apply for determining whether such research misconduct shall be reported to the Federal funding agency or other appropriate authority. The University's definition of Misconduct in Research, however, shall continue to apply for the University's internal administrative purposes, including the imposition of discipline against any person who is determined to have engaged in conduct that meets the University's definition of Misconduct in Research.

VI. HISTORY

Original policy effective August 18, 1988
Revised December 15, 1989
Revised December 31, 1998
Revised July 1, 2011

VII. KEY WORDS

Misconduct, research, faculty, research, integrity