

## NOTICE OF PROPOSED REGULATION

Date: February 27, 2007

**REGULATION TITLE:**  
Policy for Dealing with Conduct in Research

**REGULATION NO.:**  
6C1-1.0101

**SUMMARY:** The amendments to this regulation clarify that “research misconduct” for the purposes of the regulation does not include authorship or credit disputes and clarify the definitions of falsification, fabrication, and plagiarism. The amendments also clarify the requirements for a finding of research misconduct and clarify the circumstances occurring during the research misconduct inquiry or investigation of which a federal agency funding the research must be immediately informed.

**AUTHORITY:** BOG Resolution dated January 7, 2003

**COMMENTS CONCERNING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW.**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION**

**IS:** Rebecca J. Holt, Administrative Assistant, 123 Tigert Hall, Post Office Box 113125, University of Florida, Gainesville, Florida 32611, 352-392-1358 office, 352-392-4387 facsimile, regulations@ufl.edu.

**NAME OF PERSON WHO APPROVED THE PROPOSED REGULATION:** Win Phillips, Vice President for Research

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

~~REGULATIONS~~~~RULES~~ OF  
~~DEPARTMENT OF EDUCATION~~

~~DIVISION OF UNIVERSITIES~~

UNIVERSITY OF FLORIDA

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

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

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

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

(a) Fabrication is making up data or results and recording or reporting them. Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

(b) Research Misconduct does not include honest error or differences of opinion. It does not include authorship or credit disputes. ~~the violation of accepted standards of scientific or scholarly research in proposing, carrying out research or reporting the results, such as fabrication, falsification, plagiarism, selective reporting or the omission of conflicting data, or other serious deviations from accepted practices in proposing, carrying out, or reporting results from research. It does not include honest error or honest differences in interpretations or judgments of data.~~ In addition, Failure to comply with federal requirements affecting specific aspects of conducting research, misappropriation of federal funds, failing to comply with the University's Institutional Review Board policies and procedures, or other inappropriate actions in research which do not fall within the definition of research misconduct as stated in this paragraph and which are in violation of existing University regulations~~rules~~ or policies are addressed under such other regulations~~rules~~ or policies.

(c) A finding of Research Misconduct requires:

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

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

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

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

(a) The rights of all faculty members, staff, and students of the University must be protected to the greatest extent possible, whether they be the accused or whether they be the accusers, during the process of inquiry, investigation and fact finding, including protecting the privacy of the accused and of those who in good faith report alleged misconduct. There shall be no recrimination toward a person bringing an allegation in good faith, and retaliatory conduct

against persons acting in good faith will be deemed misconduct subject to disciplinary action [under University regulations or the applicable collective bargaining agreements](#).

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

(b) University [regulations](#)~~rules~~ and/or applicable collective bargaining agreement provisions shall govern any formal disciplinary proceedings initiated in response to a finding by the investigating authority of [Research M](#)~~misconduct~~~~-in-research~~.

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

(d) Precautions shall be taken against real or apparent conflict of interests of individuals involved in an inquiry or investigation of an allegation of [R](#)~~research~~ [M](#)~~misconduct~~.

(5) Pre-Inquiry and Inquiry Procedures for Dealing with Alleged Research Misconduct

(a) Filing the Allegation of [Research](#) Misconduct. Allegations of [R](#)~~research~~ [M](#)~~misconduct~~ should be filed by anyone who has reason to believe that such misconduct has occurred. Such an allegation should be brought to the administrative officer to whom the accused reports, e.g. supervisor, department chairperson, dean or director. The complainant may wish to discuss the matter with the administrator before filing an allegation in which case the administrator shall determine whether resolution through informal evaluation and discussion is possible, including determining whether the complainant's concerns are unjustified, mistaken, or frivolous. Such allegation normally should be put in writing and signed and should state the

specific grounds for the allegation of [Research Misconduct](#). Any relevant documentation supporting the allegation should be included with the complaint.

(b) Processing the Allegation of [Research Misconduct](#) - Pre-Inquiry Review. The administrator to whom the allegation has been made shall immediately inform the dean (or director) of the college (or school), in writing of the allegation with a copy to the Vice President for Research. The administrator charged with reviewing the allegation shall meet as soon as possible with the complainant to discuss the allegation. If the allegation is determined to be wholly lacking in any basis, the allegation shall be dismissed. A record of the allegation, the steps taken to review the allegation, and the basis for its dismissal shall be maintained by the Vice President for Research or designee.

(c) Inquiry Process

1. Upon determining that there is some evidence that the allegation may have basis, the administrator reviewing the allegation shall proceed with an inquiry into the allegation. The administrator reviewing the allegation shall be responsible for notifying the accused in writing of the allegation, advising the accused of the procedures to be followed by the University, affording the accused an opportunity to respond to the allegation, and keeping the accused informed of the progress of the inquiry process. The accused shall be provided with a copy of this [regulation](#)~~rule~~ describing the procedures to be followed. The accused has the right to retain legal counsel.

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

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

4. The administrator shall conduct an inquiry into the allegation. The inquiry shall be concluded within sixty (60) calendar days of the receipt of the allegation unless circumstances clearly warrant a longer period. If the inquiry takes longer than sixty (60) calendar days from the date of the allegation to complete, the record of the inquiry shall include documentation of the reasons for exceeding the sixty (60) day period. Upon conclusion of the inquiry, the administrator responsible for conducting the inquiry shall submit a written report of the findings to the Vice President for Research or designee and to the accused indicating that:

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

[Research](#) [scientific](#) [Misconduct](#), or

b. The findings of the inquiry indicate that there is some credible evidence that [Research](#) [scientific](#) [Misconduct](#) has occurred so as to warrant an investigation.

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

(6) Post-Inquiry Procedures

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

1. In cases where the administrator conducting the inquiry has found no sufficient basis for conducting an investigation, the inquiry shall be terminated unless the Vice President for

Research or designee, after assessing the reasons given for the conclusion that an investigation is not warranted, determines that an investigation is warranted. In cases where the inquiry is terminated, the accused shall be notified and detailed documentation of the inquiry shall be maintained in accordance with paragraph (8) below.

2. In cases where the findings of the administrator conducting the inquiry provide a sufficient basis for conducting an investigation, the Vice President for Research or designee shall initiate an investigation within twenty (20) calendar days of the completion of the inquiry and shall constitute an ad hoc College Research Advisory Committee to conduct the investigation. The ad hoc College Research Advisory Committee will consist of three or more faculty members or other employees who have sufficient expertise in the subject matter under investigation. The Committee shall be given the authority and assistance necessary to conduct a thorough investigation of the allegation. Such investigation shall commence no later than ten (10) calendar days after the Committee's appointment. The accused shall upon request be given access to all relevant documents reviewed by the Committee.

(b) In the case of federally-sponsored research, the decision to proceed with an investigation shall be reported in writing to the designated office (Office of Research Integrity, Inspector General, etc.) of the sponsoring agency or agencies supporting the research on or before the date of the initiation of such an investigation. The notification to the sponsoring agency shall, at a minimum, include the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the application or grant number(s) involved. A copy of the notification shall be furnished to the accused and the accused's dean or director. If the results of the inquiry contain any reasonable indication of possible criminal law violations, the Vice President for Research or designee shall notify the official as designated by the agency's regulations within twenty-four (24) hours of obtaining such an indication. The Vice President for Research or designee shall keep the designated agency official apprised of any development during the course of the investigation which discloses facts that may affect current or potential agency funding for the individual(s) under investigation or that the agency needs to know to

ensure appropriate use of federal funds and otherwise protect the public interest. The Vice President for Research or designee shall take interim administrative actions, as appropriate, to protect federal funds and insure that the purposes of the federal financial assistance are carried out. The Vice President for Research or designee is responsible for notifying the designated agency official immediately(s) at any stage in the inquiry or investigation if: (i) the health or safety of the public is at risk, including an immediate need to protect human or animal subjects; (ii) federal resources or interests are threatened; (iii) research activities should be suspended; (iv) there is reasonable indication of possible violations of civil or criminal law; (v) federal action is required to protect the interests of those involved in the Research Misconduct proceeding; (vi) there is a reasonable probability that the Research Misconduct proceeding may be made public prematurely; or (vii) the research community or public should be informed. ~~there exists (i) an immediate health hazard, (ii) an immediate need to protect federal funds or equipment, (iii) an immediate need to protect the interests of the person(s) making the allegations or of the accused, co-investigators or colleagues, or (iv) probability that the allegations will be reported publicly.~~

The Vice President or designee normally will wait until the outcome of the investigation to notify others, such as corporate sponsors, journal editors, co-authors or affiliated institutions, of the allegation of misconduct, unless there exists compelling reasons in the judgment of the Vice President for Research or designee, such as a danger to human health, welfare, or safety.

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

(c) The Committee shall complete a thorough investigation of the allegation within one hundred twenty (120) calendar days of the initiation of the investigation. If the Committee determines that it will not be able to complete the investigation within one hundred twenty (120) calendar days, it must notify the Vice President for Research or designee. If the investigation will not be completed within one hundred twenty (120) calendar days, the Vice President for Research or designee shall submit to the designated agency official, if federally-sponsored



research is involved, a written request for an extension and an explanation for the delay that includes an interim report on the progress to date and an estimate for the date of completion of the final report. The 120 calendar day time limitation shall include conducting the investigation, preparing the report of findings, making that report available for comment by the subjects of the investigation, and submitting the report to the designated agency official. If the Vice President for Research or designee plans to terminate an inquiry or investigation for any reason without completing all relevant requirements under federal law with regard to federally-sponsored research, a report of such planned termination, including a description of the reasons of such termination shall be made to the designated agency official ~~who~~<sup>which</sup> will then decide whether further investigation should be undertaken.

Whenever possible, interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations; complete summaries of these interviews should be prepared, provided to the interviewed party for comments or revision, and included as part of the investigative file. Throughout the investigation, confidentiality shall be maintained to the greatest extent possible, consistent with the laws of the State of Florida and Federal law. All individuals involved in the investigation should be informed of the confidentiality requirements. The Committee shall prepare and maintain the documentation to substantiate the investigation's findings. This documentation is to be made available to the designated agency official in the case of federally-sponsored research.

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

documents or other information it considered in its investigation of the allegation. Prior to forwarding the final report to the Vice President for Research or designee, the Committee shall provide a draft report to the accused who shall have the right to respond to the Committee in person or in writing within a specified period of time. The Committee shall consider such response in finalizing its report. The person(s) who raised the allegations should be provided with those portions of the report that address their role and opinions in the investigation.

(e) The Vice President for Research or designee shall review the Committee's report and take such actions as indicated in [section paragraph](#) (7) below.

(7) Action Following Investigation.

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

(b) If the Committee finds that the evidence indicates that the accused has engaged in [Research M](#)isconduct, the Vice President for Research or designee and the administrator responsible for the appointment and assignment of the accused shall review the Committee's report and shall, within fifteen (15) calendar days of receipt of the Committee's report or as soon thereafter as possible, make a preliminary determination as to the action to be taken by the University. The accused shall be promptly informed of such action to be taken and the reasons therefor. If a federally-sponsored project is involved, the Vice President for Research or designee shall provide the designated agency official with a copy of the Committee's report and shall inform the designated agency official of the action taken by the University as well as a description of any sanction(s) taken. Formal action will be taken in accordance with the appropriate provisions of University of Florida [regulations](#)~~rules~~ or the applicable collective bargaining agreements as University procedures require. Examples of such action include, but

are not limited to, the following: removal from a research project, monitoring and reporting of future research, reprimand, salary reduction, rank reduction, suspension, or termination.

(c) If ~~grievance~~~~formal~~ proceedings are initiated by the accused and the outcome of the proceedings is favorable to the accused, the appropriate Vice Presidents, Dean or Director shall make every effort to clear the record of the accused with sponsoring agencies and other appropriate individuals or institutions, and to undertake diligent efforts to protect the positions and reputations of those persons who in good faith made allegations, and shall notify the agencies, individuals or institutions of the outcome of the ~~proceedings~~~~investigation~~.

(d) If ~~grievance~~~~formal~~ proceedings result in a finding of misconduct, the designated official of the sponsoring agency and other appropriate individuals or institutions, including editors of relevant journals, shall immediately be notified. All findings of the proceeding shall be incorporated into the personnel file of the accused.

(8) Records. Records pertaining to the allegation, inquiry and investigation shall be maintained in a secure manner for a period of at least three years by the Vice President for Research or designee after the termination of the inquiry or investigation, and shall, upon request, be provided to authorized funding agency personnel. If a federally-sponsored project is involved, the records shall be maintained in accordance with federal regulations.

Specific Authority BOG Resolution dated January 7, 2003~~240.227(1), 240.241(2), 240.261(1), (2) FS.~~

~~Law Implemented 240.227(5), (19), 240.241(2), (4) FS.~~

History--New 5-23-96, Amended.