



*The*  
**UNIVERSITY**  
*of* **VERMONT**

Policy V. 3.2.6.2

Responsible Official: Senior Vice  
President and Provost

Effective Date: May 27, 2009

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# **Alleged Misconduct in Research and Other Scholarly Activities – Interim Policy**

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## **Policy Statement**

The University of Vermont is committed to fostering an environment in which the highest ethical standards in the conduct of research and other scholarly activities are followed. The primary responsibility for maintaining such standards of honesty in the pursuit and dissemination of knowledge rests with the faculty, their collaborating staff members, and students.

An individual engaged in research and other scholarly activities must be aware of the ethical standards governing his/her discipline and of applicable regulations. Persons subject to this policy should report conduct that they believe in good faith constitutes misconduct in research or other scholarly activities. Protection shall be provided to whistleblowers as detailed in [whistleblower protection](#).

“Research misconduct” means 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.
- (b) 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.
- (c) Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- (d) Research misconduct does not include honest error or differences of opinion.

Persons found in violation of this policy under the procedures described below are subject to disciplinary action and may also be subject to civil or criminal prosecution.

Any allegation of misconduct in research and other scholarly activities against a member of the faculty or his/her collaborator(s) merits a prompt, thorough, and fair review. All time limits contained in this policy should be adhered to except in the event of extenuating circumstances not reasonably foreseeable or avoidable. In the event a delay is anticipated, the responsible administrator or body should document the reasons for delay. If the status of the matter is such that the accused or third parties have been notified that an inquiry or investigation is in progress, notice of the delay and the reasons therefore should be provided.

## **Reason for the Policy**

Integrity in research and scholarship is a fundamental value upon which the University is founded. Without integrity, we could not justify the privilege of academic freedom intrinsic to scholarship and education, nor could we provide to society the advancements of knowledge that derive from free and open inquiry. This policy is designed to address important issues of scientific integrity that arise in the course of daily academic life. While no set of guidelines can ensure responsible research conduct, this policy serves to set the high standards of integrity that we expect from all faculty, trainees, staff and students.

## **Strategic Direction**

This policy supports the following goal in the University's Strategic Plan:  
[http://www.uvm.edu/president/?Page=strategicplan2009\\_2013.html](http://www.uvm.edu/president/?Page=strategicplan2009_2013.html)

- *Scholarship*: Focus and strengthen research, scholarship, and the creative arts, and develop outstanding graduate programs that support the creation and sharing of knowledge.

## **Applicability of the Policy**

This policy covers faculty, postdoctoral students, graduate students, personnel who have research responsibilities in conjunction with their employment or in conjunction with a course of study, and any other persons who are required by law or federal regulation to be covered by an approved University policy regarding misconduct.

## **Policy Elaboration**

### **Stage 1. Allegation of Misconduct.**

*Initiation of a Charge.* Signed and dated statements containing an allegation of

misconduct (Note 1) and the reasons and bases for suspecting misconduct by a member (Note 2) of the University shall be sent to the department chairperson of the person accused. If the accused has an immediate supervisor who is not the department chairperson, a copy of the signed and dated allegation shall be provided to the supervisor at the same time it is sent to the chairperson. If the chairperson, dean, or a higher administrator is the one suspected of misconduct, the allegation shall be made to the immediate administrative supervisor of the person suspected. An exception must occur if the person alleging misconduct is the immediate supervisor of the person accused; the allegation must then be sent to the supervisor of the person making the allegation. The individual who receives the allegation (hereafter called the "Informal Inquirer") must conduct an informal inquiry into the allegation to determine if the allegation is frivolous or for other reasons does not warrant a more thorough inquiry.

Note 1: For simplicity, the singular "allegation" shall be used here to refer to a charge of one or multiple acts of misconduct.

Note 2: This policy covers faculty, postdoctoral students, graduate students, personnel who have research responsibilities in conjunction with their employment or in conjunction with a course of study, and any other persons who are required by law or federal regulation to be covered by an approved University policy regarding misconduct. However, if an undergraduate student is accused of misconduct as defined in this policy, and neither law nor regulation require the alleged misconduct to be judged under this policy, then academic honesty procedures described in the student handbook, *The Cat's Tale*, shall apply.

Examples. The following examples are nonexclusive and presented for informational purposes only.

Example 1: A chairperson alleges misconduct by a faculty member of his or her department. The chairperson makes the allegation to the dean, who conducts an informal inquiry. If the case moves to the formal inquiry stage, the Vice Provost for Research would be the Investigation Director.

Example 2: A dean alleges misconduct by a chairperson. The allegation must be made to the Vice Provost for Research, who serves as the Informal Inquirer. If the case proceeds to the formal inquiry stage, the Provost serves as the Investigation Director.

*Informal Inquiry.* Within ten calendar days, the Informal Inquirer shall conduct a limited informal inquiry to determine whether the allegation is frivolous or for other reasons does not warrant a more thorough inquiry. If so, the Informal Inquirer shall prepare a written finding for the file and the informal inquiry shall end. If the allegation is judged not to be frivolous, or if any person in addition to the accuser and/or the immediate supervisor of the accused is consulted in connection with the informal inquiry, the accused individual shall be provided a copy of the signed and dated statement of the allegation and shall be accorded an adequate opportunity to respond to the allegation. If the response of the accused convinces the Informal Inquirer that the charge does not warrant a more

thorough inquiry, the Informal Inquirer shall prepare a written finding for the file as indicated above, and the inquiry shall end.

If the accused individual is represented by a collective bargaining agent and is interviewed or consulted during the informal inquiry, the interview or consultation must adhere to disciplinary procedures prescribed in the applicable collective bargaining agreement.

Continuation to a Formal Inquiry. If the Informal Inquirer decides that the allegation warrants a more thorough inquiry, the Informal Inquirer shall, within ten calendar days of receipt of the allegation, notify his/her immediate administrative superior in writing. The supervisor of the Informal Inquirer, hereafter called the Investigation Director, shall conduct a formal inquiry. The Informal Inquirer shall supply to the Investigation Director a copy of the original signed and dated statement of the allegation along with her/his written notification. The accused will already have been given a copy of the allegation by the Informal Inquirer. The Investigation Director shall also provide written notice to any and all collaborators associated with the research under review, and to the administrator of any applicable institutional research review board, that a formal inquiry is pending.

Conflict of Interest. It is crucial to avoid the appearance or reality of a conflict of interest. If, in the normal assignments of responsibility in the Initiation of a Charge, Informal and Formal Inquiries, the task of Informal Inquirer or Investigation Director would pass to someone who may have a conflict of interest, then that person must pass the task of Informal Inquirer or Investigation Director to the first individual in the normal chain of command who does not have a conflict of interest. Examples of apparent or real conflicts would include, but not be limited to, cases where the Informal Inquirer or Investigation Director initiated the charge of misconduct, or where one of these individuals was a collaborator in the research in the course of which misconduct is alleged to have occurred. Similarly, other individuals who may be asked to participate in an inquiry must avoid real or apparent conflicts of interest.

## **Stage 2. Formal Inquiry.**

Selection of the Review Panel. The Investigation Director shall appoint a Review Panel of three or five academically qualified and impartial members within ten calendar days. Scholars from other institutions who are recognized experts in the discipline of the accused individual(s) may serve as necessary to ensure a panel qualified to review the allegation. The Investigation Director should ensure, insofar as he/she can, that none of those appointed to the Review Panel has any real or apparent conflict of interest regarding the planned inquiry. The accused person shall have the opportunity to challenge proposed panel members for good cause shown, including but not limited to circumstances in which the accused believes the member(s) to be unqualified due to bias or lack of expertise.

Charge of the Panel. The Investigation Director shall explain, in writing, the responsibilities of the Review Panel and shall provide it with all material already at hand.

Material to be Provided to the Panel. The person accused of misconduct shall be obliged to provide the Review Panel with: (a) a list of all persons connected with the work; (b) copies of relevant grant applications and work progress reports; (c) all requested relevant research notebooks, journals, and other records; (d) copies of relevant abstracts and papers, published or pending; (e) other relevant information and materials as required by the Review Panel. In the event the accused fails to respond or otherwise cooperate, the Review Panel shall continue its inquiry insofar as is feasible.

Formal Inquiry. The Panel may interview anyone who could contribute information helpful to the inquiry. The accused individual(s) shall be requested to cooperate with the Review Panel and shall have the opportunity to be heard and defend themselves against the allegation, including the presentation of additional relevant evidence and witnesses. If the accused individual is represented by a collective bargaining agent and is interviewed or testifies during the formal inquiry, the interview or testimony must adhere to disciplinary procedures prescribed in the applicable collective bargaining agreement. If the accused resigns or refuses to participate, the Review Panel shall continue the inquiry.

Conclusion of Formal Inquiry. The Review Panel shall complete its formal inquiry and send a written report to the Investigation Director in no more than 60 calendar days. The report must indicate the reasons for deciding either to terminate the inquiry if the allegation is not substantiated or to continue further with an investigation. An investigation may continue, even if the original allegation was not substantiated, if the formal inquiry provided evidence of misconduct. In the latter case, an amended allegation shall be provided to the accused. The accused and the accuser shall receive copies of the report by the Review Panel, which must include findings of fact, conclusions, and the bases therefor. They shall have ten calendar days to comment in writing on the findings of the inquiry. Their comments shall be added to the record.

### **Stage 3. Investigation.**

Notification of the Provost. If the Review Panel determines that there is sufficient basis to continue with an investigation, the Investigation Director shall notify the Provost (unless the Investigation Director is the Provost).

Sponsored Projects. It is the responsibility of the Provost to assure timely compliance with funding agency regulations regarding the reporting and disclosure of information relevant to misconduct in research. When a sponsoring agency is notified that an investigation is underway, a copy of the notification shall be sent to the person(s) accused of misconduct.

In general, sponsoring agencies shall be notified if, and only if, an Investigation (Stage 3) is initiated, unless earlier notification is required by law, by regulation, by prior agreement between the University and the funding agency, or by extraordinary circumstances. Any of the following shall be a compelling reason for notifying a sponsor before the investigation stage is reached: (a) There is an immediate and previously

undisclosed threat to the public health, safety, or welfare that requires notification. (b) There is immediate need to protect sponsoring agency funds or other assets. (c) There is immediate need to protect the interests of the University member making the allegation, or the person accused of misconduct, or any coinvestigators and associates, requiring early notification. (d) There is good reason to believe the allegation will be reported publicly. (e) There is prima facie evidence of criminal violation. In this instance, notification must occur within 24 hours.

*Further Investigation.* The Review Panel shall continue with an investigation along the lines indicated in Stage 2. The Review Panel may request that its membership be expanded following the procedure outlined in [Selection of the Review Panel](#); the expanded panel should have an odd number of members. The accused shall again have the right to challenge proposed additions to the Review Panel for good cause shown. If the accused individual is represented by a collective bargaining agent and is interviewed or testifies during the investigation, the interview or testimony must adhere to disciplinary procedures prescribed in the applicable collective bargaining agreement.

*Expanding the Investigation.* The Review Panel may expand the investigation to include other projects with which the accused individual(s) is or has been involved where the investigation thus far: (a) suggests a substantive link between the project under investigation and other projects; (b) establishes that the same research team was or may have been involved in other projects; (c) indicates a pattern or practice of misconduct; or (d) reveals other appropriate circumstances under which review should be expanded. If the investigation uncovers new evidence of misconduct, not previously alleged, the Investigation Director shall give the accused, in writing, an amended allegation.

*Time Limit.* The Review Panel shall complete this phase of the investigation in no more than 120 calendar days and document its decision to the Investigation Director in a written report. The accused and the accuser shall receive copies of the report, which must include findings of fact, conclusions, and the bases therefor. They shall have ten calendar days to comment in writing on the findings of the investigation. Their comments shall be added to the record of the investigation.

### **Subsequent Actions.**

*Notification of the Provost.* Within ten calendar days of receiving the full report of the Review Panel, the Investigation Director shall forward the report to the Provost. The Investigation Director shall notify the accused person(s) that this action has been taken, and in this letter advise the accused of the right of appeal and time limits for appeal ([see Section Appeals](#)). The Investigation Director shall notify any other appropriate parties of the findings of the Review Panel. In cases where there is support for the allegation, the Investigation Director shall recommend to the Provost an appropriate course of action.

*Appeals.* If the allegation against an individual(s) is proven, wholly or in part, the letter from the Investigation Director reporting that the findings have been sent to the Provost (see Section Notification of the Provost) shall notify the individual(s) that a written

appeal can be directed to the Provost (or to the President if the Provost was the Investigation Director) within ten calendar days. The written appeal must be based solely upon issues of procedural error that substantially damaged the accused; decision without rational basis; decision rendered in violation of fundamental rights of the accused, as established by Constitutional or statutory law; or new evidence that was not reasonably available during the time of inquiry or investigation. In an appeal, the burden of proof is upon the individual making the appeal. The decision of the Provost (or President) shall be final.

*Disciplinary Actions.* If all or part of the allegation is proven against the individual(s) accused of misconduct, the individuals shall be subject to disciplinary action(s), which may include termination as provided in the Faculty Handbook or any applicable collective bargaining agreement. Procedures in this policy are not, however, intended to supersede procedures outlined in Part Five, Section 3 of the Faculty Handbook or the discipline articles of applicable labor contracts. Individual(s) guilty of academic misconduct may also be expected personally to make restitution as appropriate under the circumstances of the case.

*Notification of Sponsors.* If the Review Panel has determined that misconduct occurred in sponsored research, the Provost shall notify the sponsoring agency or agencies in writing of the findings of the investigation. If a sponsor received notice of an investigation in progress in accordance with [Sponsored Projects](#), then the sponsor shall be notified in writing of the outcome of the investigation even if the Review Panel finds that the allegation was without foundation.

*Notification of Journals.* The Provost shall notify the editor(s) of journals to which abstracts and papers, emanating from research determined to be the product of misconduct, have been submitted and/or published.

*Notification of Other Institutions and Agencies.* Institutions with which the individual(s) has been affiliated and the relevant sponsoring agencies should be notified by the Provost if there is reason to believe that the validity of previous research might be questionable.

*Cooperation with federal agency proceedings.* In cases involving federal funding support, the University shall provide its full and continuing cooperation with the appropriate federal office during any federal investigations, oversight reviews, administrative hearings, or appeals.

### **Guidelines for the Conduct of an Inquiry/Investigation.**

*Primacy of federal law.* If federal funding has been sought or received in connection with the research at issue, proceedings under this policy shall conform with applicable federal regulations such as the Public Health Service Final Rule on Research Misconduct, 42 C.F.R. Part 93. For example, the Investigation Director shall ensure that appropriate institutional actions are taken to protect public health, federal funds and equipment, and

the integrity of the federally-supported research process and shall notify the appropriate federal office of any facts relevant to those institutional actions. Similarly, the maintenance and custody of research records and evidence shall comply with appropriate rules, such as, if applicable, 42 C.F.R. section 93.305.

Standards of adjudication. A finding of research misconduct made under this policy requires that--

(a) there be a significant departure from accepted practices of the relevant research community; and

(b) the misconduct be committed intentionally, knowingly, or recklessly; and

(c) the allegation be proven by a preponderance of the evidence.

Privacy. All University persons called upon to administer this policy, including but not limited to the Review Panel, shall diligently protect the privacy of those against whom allegations are made. Confidentiality shall therefore be maintained except as necessary to consult with persons as required by this policy and except insofar as disclosure is required by law. All notebooks, journals, and other materials submitted to the Panel shall be held in trust by the Panel.

Restoration of Reputation. If the alleged misconduct is not substantiated by a thorough investigation, efforts must be undertaken to restore fully the reputation of the researcher and others under investigation. At a minimum, written notifications must be sent to each individual and agency contacted at any point during these proceedings, describing the outcome of the investigation and including a definitive statement that the University supports and continues its commitment to the individual(s) against whom an allegation of misconduct was levied. If the accused believes the charges resulted in unfair treatment in the workplace, he/she may follow grievance procedures described elsewhere in applicable handbooks or collective bargaining agreements.

Collaborators. Collaborators named in allegations, against whom charges are not commenced under this policy, are presumed to be innocent of misconduct except where allegations are lodged against them as individuals and reviewed under the procedures of this policy.

Whistleblower Protection. Disclosure of suspected misconduct is a responsibility of faculty, staff, and students. Retaliation against those who report misconduct is contrary to University policy. If a member of the University (a "whistleblower") makes an allegation of misconduct **in good faith**, the University shall, to the maximum extent possible, protect the whistleblower from retaliation by the accused or third parties, including but not necessarily limited to the initiation of disciplinary action against persons who engage in such conduct. If a claim is filed externally with an administrative agency or in a court of law against the whistleblower because of the filing of an allegation under this policy, the University shall retain or authorize the retention of legal counsel to provide a defense and indemnify the whistleblower against any judgments resulting from such action, provided that the whistleblower filed such allegation, or provided testimony relating to

such an allegation, in good faith and in connection with his/her employment or enrollment at the University. If an allegation made in good faith results in loss of employment by the whistleblower, or so strains working relations that it is impractical for the whistleblower to continue in his/her original position, the University shall make a good faith effort to find substantially equivalent employment elsewhere in the University.

If a whistleblower makes an allegation that he or she knows, or should know, is not true, or if an allegation is fabricated to harm the accused person, or if an allegation is made maliciously or recklessly, the above protections shall not apply and appropriate disciplinary action shall be taken against the whistleblower.

### **Guidelines for the Confidentiality of Records.**

Confidentiality. All records, documents, and the like submitted, generated, or otherwise developed in connection with proceedings under this policy are confidential. The official record shall be maintained for at least seven years.

Records of Proceedings Terminating before Stage 3. All records, documents, and the like relative to proceedings that terminate prior to Stage 2 shall be maintained confidentially in the office of the Informal Inquirer. The records and documents shall be sealed, and filed under the name of the individual against whom allegations were made, in a repository created for the purpose of records maintenance under this policy. Under no circumstances should such records be referenced or included in the personnel file of the individual(s) against whom allegations were made. The same procedures shall apply relative to proceedings that terminate prior to Stage 3, except that such records shall be maintained in the office of the Investigation Director.

Records of Proceedings Terminating after Stage 3. All records relative to proceedings that terminate after Stage 3 shall be maintained in the Office of the Provost. If the allegations are found to be without merit, the procedures for records maintenance described in the preceding paragraph shall apply, except that such records shall be maintained in the Office of the Provost. If the allegations are wholly or partially substantiated, the records shall be maintained unsealed in the Office of the Provost.

Access to Records. Access to records shall be limited to persons to whom access must be granted to ensure compliance with the dictates of the law and this policy. All access and disclosure requests, and responses thereto, shall be documented and maintained as part of the file.

Administration of Confidentiality. All persons called upon to administer this policy shall exercise diligence to assure compliance with these confidentiality requirements. No disclosure of, or access to, such records shall be permitted, except as required by law or essential to effect this policy.

### **Review of Policy.**

After completion of an investigation, faculty practices and institutional policies and procedures for promoting the ethical conduct of research and investigating allegations of misconduct should be scrutinized and modified in light of the experience gained.

## **Definitions**

“*Research Misconduct*” means 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.
- (b) 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.
- (c) Plagiarism is the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.
- (d) Research misconduct does not include honest error or differences of opinion.

## **Forms**

None

## **Contacts**

Questions related to the daily operational interpretation of this policy should be directed to:

Associate Vice President for Research Administration  
Sponsored Programs Office 340 Waterman Bldg.  
Phone: (802)-656-3360

The Senior Vice President and Provost is the official responsible for the interpretation and administration of this policy.

## **Related Documents/Policies**

Related Significant Financial Interest in Research and Scholarly Activity  
<http://www.uvm.edu/~uvmppg/ppg/grants/researchcoi.pdf>

Collective Bargaining Agreements:  
Teamsters

[http://www.uvm.edu/hrs/info/benefits/plans/Teamsters\\_contract05-07.pdf](http://www.uvm.edu/hrs/info/benefits/plans/Teamsters_contract05-07.pdf)

United Academics full-time unit (AAUP/AFT)

<http://www.uvm.edu/%7Efacsrcs/?Page=unioncontract.html>

United Electrical Workers

[http://www.uvm.edu/hrs/info/benefits/ue\\_contract.pdf](http://www.uvm.edu/hrs/info/benefits/ue_contract.pdf)

## **Effective Date**

Approved by the President on May 27, 2009