

WILKES UNIVERSITY RESEARCH MISCONDUCT POLICY

1. INTRODUCTION AND SCOPE

Integrity, trust, and respect are important elements in an academic research environment. Investigators typically conduct research and explain findings and theories with diligence, precision, and responsibility. Policies and procedures to deal with allegations of research misconduct are critical components in maintaining the public trust and the credibility of researchers.

In accordance with federal policy on research misconduct published in the December 6, 2000 edition of the Federal Register, 65 Fed. Reg. 76-260, Wilkes University has established policy and procedures to handle allegations of research misconduct and to ensure the credibility and objectivity of research activities.

In broad terms this process is intended to:

- Ensure that ethical standards for research at Wilkes University are clearly stated and applied.
- Ensure prompt inquiry into allegations of misconduct and, where appropriate, timely initiation of formal investigations and notification to sponsors of action taken.
- Ensure that each investigation is properly documented to support findings and carefully conducted to protect any person whose reputation may be placed at risk during the process.
- Respect the principles of academic freedom.

The policy and procedures regarding research misconduct are intended to protect the integrity of the University's research enterprise and not hinder the search for truth or interfere with the expansion of knowledge.

This policy applies to all individuals who may be involved with a research or scholarly project, including, but not limited to, faculty, graduate/undergraduate students, staff, visiting scholars, and any other member of the University's academic community. Faculty are responsible for emphasizing the importance of ethical research conduct to staff and students who are under their supervision and for providing reasonable supervision to minimize the opportunities for research misconduct. Faculty are also responsible for establishing policies regarding author names on publications in accordance with the norms of their discipline, making those policies well known to students and staff, and conforming to those policies in their own publications. Cases of research misconduct involving students are subject to the normal disciplinary rules governing students, but may be reviewed, as appropriate, under this policy when the misconduct or allegation of misconduct involves peer-reviewed publications or research.

2. DEFINITIONS

2.1 “Complainant” means a person who makes an allegation of research misconduct. There can be more than one complainant in any inquiry or investigation.

2.2 “Fabrication” is making up data or results and recording or reporting them with the intent to mislead.

2.3 “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 [i.e. the record of data or results that embody the facts emerging from the research, and includes, but is not limited to, research proposals, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and books].

2.4 “NEH” means the National Endowment for the Humanities. The NEH has adopted rules establishing standards for institutional responses to allegations of research misconduct.

2.5 “NSF” means the National Science Foundation. The NSF has adopted rules establishing standards for institutional responses to allegations of research misconduct.

2.6 “ORI” means the Office of Research Integrity, an office within the U.S. Department of Health and Human Services that is responsible for overseeing the implementation of PHS policies and procedures on research misconduct.

2.7 “PHS” means the Public Health Service, a component of the U.S. Department of Health and Human Services. The PHS has adopted rules establishing standards for institutional responses to allegations of research misconduct.

2.8 “Plagiarism” is the appropriation of another person’s ideas, processes, results or words without giving appropriate credit. Plagiarism includes both the theft or misappropriation of intellectual property and the substantial unattributed textual copying of another's work. It does not include authorship or credit disputes.

2.9 “Recklessly” means that a person acts in such a manner that the individual consciously disregards a substantial and unjustifiable risk or grossly deviates from the standard of conduct that a reasonable individual would observe.

2.10 “Research misconduct” is defined as fabrication, falsification or plagiarism in proposing, conducting, reporting or reviewing sponsored or unsponsored research. The misconduct must have been committed intentionally, knowingly or recklessly. Research misconduct is further defined to include gross carelessness in conducting research amounting to wanton disregard of truth or objectivity, or failure to comply or at least attempt to comply with material and relevant aspects of valid statutory or regulatory requirements governing the research in question. Research misconduct is more than a simple instance of an error in judgment, a misinterpretation of experimental results, an oversight in attribution, a disagreement with recognized authorities, a failure in either

inductive or deductive reasoning, an error in planning or carrying out experiments, or a calculation mistake.

2.11 “Respondent” means the person against whom an allegation of research misconduct is directed or the person who is the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

3. GENERAL PRINCIPLES

3.1 Research misconduct cannot be tolerated and will be firmly dealt with when found to exist.

3.2 For purposes of resolving allegations of research misconduct, the process established by this policy shall apply to allegations of fabrication, falsification or plagiarism. All other allegations of research misconduct shall be resolved using other applicable University policies and procedures.

3.3 Charges of research misconduct shall be promptly reviewed and a copy of this policy shall be made available to the complainant. Allegations must be made in writing, and signed and dated by the complainant. If health or safety is involved, prompt remedial action shall be taken.

3.4 Every effort shall be made to protect the rights and the reputations of everyone involved, including the individual who in good faith alleges perceived misconduct as well as the alleged violator(s). A good faith allegation is made with the honest belief that research misconduct may have occurred. Persons making a good faith allegation shall be protected against retaliation. Individuals who believe they have suffered retaliation may consult either the Faculty Handbook or Staff Handbook (Policy No. 703) regarding options for filing a complaint under the Institutional Policy that protects against sexual and other unlawful harassment.

Persons making allegations in bad faith will be subject to disciplinary action, up to and including termination or expulsion. An allegation is made in bad faith if the complainant knows that it is false or makes the allegation with reckless disregard for or willful ignorance of facts that would disprove it.

3.5 All members of the University community are expected to cooperate with committees conducting inquiries or investigations.

3.6 Care will be exercised at all times to ensure confidentiality to the maximum extent possible and to protect the privacy of persons involved in the research under inquiry or investigation. The privacy of those who report misconduct in good faith will also be protected to the maximum extent possible. Files involved in an inquiry or investigation shall be kept secure and applicable state and federal law shall be followed regarding confidentiality of personnel records.

4. PRELIMINARY ASSESSMENT OF ALLEGATIONS

4.1 An initial report of alleged research misconduct shall be treated and brought in a confidential manner to the attention of the faculty member or other person (e.g., chairperson, supervisor, director, principal investigator) responsible for the researcher(s) whose actions are in question, or, as appropriate, to the dean of the researcher's college. The person receiving the initial report shall, in turn, make an immediate confidential report of the allegations to the dean of the researcher's college (if the dean was not the recipient of the initial report) and to the Provost.

4.2 An initial report of research misconduct might arise as part of an administrative review. Such a report will be acted upon in accordance with this policy. The report should be brought confidentially to the Provost.

4.3 Upon receipt of an initial report of alleged research misconduct, the Provost, or designee, shall conduct a preliminary assessment within two weeks. The purpose of the preliminary assessment is to determine whether the allegation falls within the definition of research misconduct and whether there is sufficient evidence to warrant an inquiry. If both conditions are met, the inquiry process shall be initiated. If the preliminary assessment finds insufficient information to allow specific follow-up or the allegation falls outside the definition of research misconduct, the matter will not proceed to an inquiry, and the Provost shall so inform the respondent and complainant in writing. The allegation may be referred for review under another University policy, as appropriate.

5. INQUIRY

5.1 Purpose and Initiation

If the preliminary assessment reveals that the allegation falls within the definition of research misconduct and there is sufficient information to allow specific follow-up, the inquiry process shall be initiated by the Provost. The Provost will clearly identify the original allegation and any related issues that should be evaluated in the inquiry. The purpose of the inquiry is to make a preliminary evaluation of the available evidence to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct occurred. The findings of the inquiry shall be set forth in an inquiry report.

5.2 Securing Research Records

After determining that an inquiry will occur, the Provost will direct the process whereby all original research records (or copies if originals cannot be located) and materials which may be relevant to the allegation are immediately secured. Prompt securing of records is in the best interests of both the respondent and Wilkes University. Immediately upon ensuring that the research records are secure, the respondent shall be notified that an inquiry is being initiated and an inventory of the secured records shall be provided to him/her. As soon as practicable, a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested.

5.3 Inquiry Committee

A committee of three persons appointed by the Provost shall carry out the inquiry; one of the appointees will be the Assistant Provost who will serve as committee chair. The other two inquiry committee members will be tenured faculty. Committee members should be selected on the basis of relevant research background and experience. Faculty members from other institutions may be named to the inquiry committee if a sufficient number of qualified Wilkes University faculty members are not available. Members of the committee shall have no real or apparent conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the inquiry.

The respondent shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole does not meet the criteria stated above. The Provost will consider the objection and if it has merit, shall make appropriate substitution(s). The Provost's decision as to whether the challenge has merit shall be final.

The committee shall receive a written charge defining the subject matter of its inquiry prior to beginning its work.

5.4 Inquiry Process

The respondent and complainant shall be given an opportunity to interview with the inquiry committee. The committee may interview others and examine relevant research records, as necessary, to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. University legal counsel shall be available to the committee for consultation.

The length of the inquiry shall not exceed sixty (60) days unless prior written approval for a longer period is obtained from the Provost. If the period is extended, the record of the inquiry shall include documentation of the reasons for exceeding the sixty-day period.

5.5 Inquiry Report

The inquiry committee shall prepare a report that includes:

- (1) the names and titles of the committee members and experts consulted, if any;
- (2) the allegations;
- (3) the source of sponsored research support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) the conclusions of the inquiry as to whether an investigation is recommended; and
- (8) whether any other action should be taken if an investigation is not recommended.

The respondent shall be given fourteen (14) days to review the report and to add his or her comments, which will become part of the final inquiry report and record. Based upon respondent's comments, the inquiry committee may revise its report.

5.6 Inquiry Determination

The inquiry committee final report will be sent to the Provost, who will determine whether the results of the inquiry provide sufficient evidence of possible research misconduct to warrant conducting an investigation or whether the matter will not be pursued further. The respondent and complainant shall be notified in writing of the decision. The inquiry report will also be sent to the sponsoring agency and/or ORI as required by federal regulation.

6. INVESTIGATION

6.1 Purpose and Initiation

The purpose of the investigation is to explore the allegations in detail, examine the evidence in depth, and determine specifically whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify altering the scope of the investigation. If any additional instances of possible misconduct involve a different respondent, the matter should be sent to the Provost to determine whether to initiate a preliminary assessment or address the issue as part of the existing investigation.

The investigation committee will be appointed and the process initiated within thirty (30) days after the conclusion of the inquiry. If required by sponsoring agency regulations, the University shall notify the agency of its decision to commence an investigation on or before the date the investigation begins.

6.2 Securing Research Records

Any additional pertinent research records that were not previously sequestered during the inquiry will be immediately sequestered when the decision is made to conduct an investigation. The Provost will direct this process. This sequestration should occur before or at the time the respondent is notified that an investigation will begin. The need for additional sequestration of records may occur for any number of reasons, including a decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured.

6.3 Investigation Committee

A committee of five persons appointed by the Provost shall conduct the investigation. Committee members should be selected on the basis of relevant research background and experience. All persons appointed from Wilkes University shall be tenured faculty. Tenured faculty members from other universities may be named to the investigation committee if a sufficient number of qualified Wilkes University faculty members are not available. Members of the committee shall have no real or apparent conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the investigation. No more than two members of the inquiry committee may be appointed to serve on the investigation committee.

The respondent shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole does not meet the criteria stated above. The Provost will consider the objection and if it has merit, shall make appropriate substitution(s). The Provost's decision as to whether the challenge has merit shall be final. The committee shall receive a written charge defining the subject matter of its investigation prior to beginning its

work.

6.4 Investigation Process

The investigation will normally involve examination of all relevant documentation. Whenever possible, the committee should interview the complainant, the respondent, and other individuals who might have information regarding aspects of the allegations. A verbatim written record shall be made of all interviews. A transcript of the interview shall be provided to each witness for review and correction of errors, which shall become part of the investigatory file. The committee may decide to have the complainant and the respondent present at the same meeting. University legal counsel shall be available to the committee for consultation.

6.5 Investigation Report

The investigation committee shall prepare a final report that includes:

- (1) the names and titles of the committee members and experts consulted, if any;
- (2) the allegations;
- (3) the sponsored research support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) findings and basis for each finding;
- (8) conclusion(s) as to whether research misconduct occurred; and
- (9) recommendations for institutional action.

Copies of all significant documentary evidence that is referenced in the report should be appended to the report.

A finding of research misconduct requires that four conditions be met:

- (1) the conduct at issue falls within this policy's definition of research misconduct;
- (2) the misconduct be committed intentionally, or knowingly, or recklessly;
- (3) there be a significant departure from accepted practices of the relevant research community; and
- (4) the allegation be proven by a preponderance of the evidence. This means that the evidence shows that it is more likely than not that the respondent committed research misconduct.

The respondent will be provided with a copy of the draft investigation report for review and comment. The respondent will be allowed fourteen (14) days for review and any comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all of the other evidence. The complainant may be provided with those portions of the draft investigation report that address the complainant's role and opinions in the investigation and the complainant will have fourteen (14) days to review and submit any comments to the investigation committee. The report may be modified, as appropriate, based on the complainant's comments.

6.6 Institutional Review and Determination

The investigation committee final report will be forwarded to the Provost who will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. The Provost's decision should be consistent with the definition of research misconduct, the University's policies, and the evidence reviewed and analyzed by the investigation committee. The Provost may also return the report to the investigation committee with a request for further fact-finding or analysis. The Provost's final determination will be sent to the respondent and complainant.

Respondent may appeal the final determination to the University President. An appeal is limited to: (1) a claim of procedural error; and/or (2) a claim that the sanction imposed as a result of a finding of research misconduct is inappropriate.

The investigation shall be completed within 180 days of the first meeting of the investigation committee. However, if PHS sponsored the research, the investigation shall be completed, with the final investigation report and final determination submitted to ORI, within 120 days of the first meeting of the investigation committee, unless ORI grants an extension.

7. ACTIONS FOLLOWING INVESTIGATION

7.1 Finding of Research Misconduct

If the final determination is that research misconduct occurred, Wilkes University shall take appropriate action, which may include but is not limited to:

- (1) notifying the sponsoring agency;
- (2) withdrawal or correction of all pending or published abstracts and papers emanating from the research;
- (3) removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, rank reduction or termination of employment in accordance with Wilkes University policies and procedures as set forth in the Faculty Handbook or, as appropriate, in the Staff Handbook;
- (4) determining whether law enforcement agencies, professional societies, professional licensing boards, collaborators of the respondent, or other relevant parties should be notified; and
- (5) any other steps deemed appropriate to accomplish justice and preserve the integrity of Wilkes University and the credibility of the sponsor's program.

7.2 Restoration of Respondent's Reputation

If the final determination is that no research misconduct occurred, efforts shall be undertaken to the extent possible and appropriate to fully protect, restore, or maintain the credibility of the research project, research results, and the reputation of the respondent, the sponsor and others who were involved in the investigation or deleteriously affected

thereby. Depending on the circumstances, consideration should be given to notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of research misconduct was previously publicized, expunging all reference to the research misconduct allegation from the respondent's personnel files, or reviewing negative decisions related to tenure or advancement to candidacy that occurred during the investigation. Any institutional actions to restore the respondent's reputation must first be approved by the Provost.

7.3 Protection of the Complainant and Others

Regardless of whether Wilkes University determines that research misconduct occurred, reasonable efforts will be undertaken to protect complainants who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. The Provost will also take appropriate steps during the inquiry and investigation to prevent retaliation against the complainant. Individuals who believe they have suffered retaliation may consult either the Faculty or Staff Handbook regarding options for filing a complaint.

7.4 Allegations Made in Bad Faith

If relevant, the Provost will determine whether the complainant's allegation of research misconduct was made in good faith. If an allegation was made in bad faith, appropriate disciplinary action will be taken in accordance with Wilkes University policies and procedures. If the complainant is not associated with Wilkes University, appropriate organizations or authorities may be notified and administrative or legal action considered.

8. OTHER CONSIDERATIONS

8.1 Requirements for Reporting to ORI When Funding From PHS is Involved

8.1.1 The decision to initiate an investigation must be reported in writing to the Director, ORI, on or before the date the investigation begins. The notification must include at a minimum the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the PHS application or grant number(s) involved.

8.1.2 If Wilkes University plans to terminate an inquiry or investigation without completing all relevant requirements of the PHS regulation, a report of such planned termination shall be made to ORI, including a description of the reasons for the proposed termination.

8.1.3 If Wilkes University determines that it will not be able to complete the investigation within 120 days, a written request for an extension shall be submitted to ORI that explains the delay, reports on the progress to date, estimates the date of completion and describes other necessary steps to be taken. If the request is granted, Wilkes University must file periodic progress reports as requested by ORI.

8.1.4 Wilkes University will keep ORI apprised of any developments during the course of an investigation that may affect current or potential Department of Health and Human Services funding for the individual(s) under investigation or that the PHS needs to know

to ensure appropriate use of federal funds and otherwise protect the public interest.

8.1.5 ORI shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

- (1) there is an immediate health hazard involved;
- (2) there is an immediate need to protect federal funds or equipment;
- (3) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
- (4) it is probable that the alleged incident is going to be reported publicly;
- (5) the allegation involves a public health sensitive issue (e.g. a clinical trial); or
- (6) there is reasonable indication of possible criminal violation in which case Wilkes University must inform ORI within 24 hours of obtaining that information.

8.2 Requirements for Reporting When NEH or NSF Funding is Involved

8.2.1 The decision to initiate an investigation must be reported immediately in writing to NEH or NSF, as appropriate.

8.2.2 NEH or NSF, as appropriate, shall be notified at any stage of the inquiry or investigation if any of the

following conditions exist:

- (1) public health or safety is at risk;
- (2) NEH's or NSF's resources, reputation, or other interests need protecting;
- (3) there is reasonable indication of possible violations of civil or criminal law;
- (4) research activities should be suspended;
- (5) federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or
- (6) the research community or the public should be informed.

8.2.3 NEH or NSF, as appropriate, shall be provided with a copy of the final investigation report.

8.2.4 The inquiry shall be completed within 90 days and the investigation completed within 180 days of its initiation. If completion of an inquiry or investigation will be delayed, NEH or NSF, as appropriate, shall be notified and may require submission of periodic status reports.

8.3 Interim Administrative Action

Wilkes University officials will take interim administrative actions, as appropriate, to protect federal funds and insure that the purposes of the federal financial assistance are carried out.

8.4 Termination of Wilkes University Employment

The termination of the respondent's Wilkes University employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the misconduct procedures. If the respondent refuses to participate in the process

after termination of employment, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

8.5 Record Retention

All documentation of an inquiry that does not lead to an investigation shall be maintained in University Counsel Office files for at least three (3) years after the conclusion of the inquiry. All documentation of an investigation shall be maintained in University Counsel Office files for five (5) years after the end of the investigation. Documentation shall be provided to the sponsoring agency and ORI upon request or if required by the agency's regulations. Documentation shall be treated as confidential personnel information to the extent provided for by law.

8.6 Reimbursement

If requested, the Board of Trustees in the pursuit of justice and fairness may, in its sole discretion, fully or partially reimburse the respondent and/or the complainant for legal fees in cases of unusual hardship.

8.7 Federal Regulatory Changes

If PHS, ORI, NEH, NSF or any other federal agency amends its requirements on research misconduct, those amendments shall govern where applicable and shall be incorporated into this policy by reference herein. Such changes in federal requirements shall supercede all relevant portions of this policy.