



## POLICY

### **Title:** Misconduct In Research

#### Policy Statement

The University of Vermont is committed to fostering an environment in which the highest ethical standards in the conduct of research 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 is prohibited from engaging in Research Misconduct.

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.

#### Reason for the Policy

Integrity 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 integrity that arise in the course of daily academic life and to ensure the University's compliance with applicable federal law. While no set of guidelines can ensure responsible research conduct, this policy serves to set the highest standards of integrity that we expect from all faculty, trainees, staff and students.

#### Applicability of the Policy

This policy covers faculty, students, and 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.

#### Definitions

None

## Procedures

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

Individuals subject to this policy who become aware of a possible incident of Research Misconduct must immediately report the information in accordance with this policy.

An Allegation means a disclosure of possible research misconduct by a Complainant through any means of communication. The Allegation may be by written or oral statement or other communication to an official of UVM, for example, a department chairperson, a dean, the Vice President for Research, or an attorney in the University's Office of the General Counsel. The person accused of engaging in Research Misconduct is the Respondent.

Once an Allegation has been communicated to an official of UVM, that official is directed to notify the Respondent's department chairperson of the Allegation. If the chairperson is the one suspected of Research Misconduct, the official is directed to notify the applicable Dean. The Respondent's department chairperson, or the Dean, as applicable, (hereafter called the Informal Inquirer) will decide whether an institutional inquiry is warranted. If the Respondent is a graduate student, the Informal Inquirer shall be the applicable Graduate Program Director. If the Respondent is an undergraduate student, the Informal Inquirer shall be the Dean of the college in which the undergraduate student is enrolled (which may be different than the college in which the undergraduate student is conducting research). If the Respondent is a student in the Larner College of Medicine, the Informal Inquirer shall be the Senior Associate Dean for Education.

An institutional inquiry is warranted if:

1. The Allegation falls within the definition of Research Misconduct; and
2. The Allegation is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified.

The Informal Inquirer must notify the Vice President for Research and the Office of the General Counsel regarding their decision of whether an institutional inquiry is warranted. If the Informal Inquirer is a Chair, the applicable Dean also must be notified. If the alleged research misconduct occurred at the Larner College of Medicine, then the LCOM Senior Associate Dean for Research also must be notified of all steps taken under this Policy.

Conflict of Interest: It is crucial to avoid a conflict of interest. If the Informal Investigator has a conflict of interest, then that person must pass the task of Informal Investigator to the first individual in the normal chain of command who does not have a conflict of interest. If the respondent is a graduate student, the chain of command will go from the Program Director to the Dean of the Graduate College. Examples of apparent or real conflicts would include, but not be limited to, cases where the Informal Inquirer initiated the charge of misconduct, or 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: Institutional Inquiry

An Institutional Inquiry is preliminary information-gathering and preliminary fact-finding to determine whether an Allegation has substance and if an Investigation is warranted.

When the Informal Inquirer determines that an Institutional Inquiry is warranted, the Informal Inquirer must promptly:

1. Take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct investigation, inventory the records and evidence, and sequester them in a secure manner. Where research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments. UVM Police Services may be involved, as needed.
2. After securing research records and evidence, make a good faith effort to notify in writing the presumed Respondent that an Allegation has been made against them and that the Informal Inquirer is commencing an informal inquiry into the Allegation. If the inquiry identifies additional Respondents, the Informal Inquirer must notify them as well.

The Informal Inquirer, in consultation with content expert(s) and/or Information Technology expert(s) as needed, must conduct an initial review of the evidence to determine whether to conduct an investigation. This does not require a full review of the evidence related to the Allegation. The Informal Inquirer's purpose at this Stage 2 is to decide if an Allegation warrants an investigation, based on whether there is:

1. A reasonable basis for concluding that the Allegation falls within the definition of Research Misconduct; and
2. Preliminary information-gathering and preliminary fact-finding from the informal inquiry indicates that the Allegation may have substance.

If the Respondent is a member of a collective bargaining unit, prior to interview or consultation with the Respondent regarding the Allegation, the Informal Inquirer must contact UVM's Director or Labor Relations and Employment Services, to ensure that the interview or consultation adheres to disciplinary procedures prescribed in the applicable collective bargaining agreement.

The Respondent may consult with their own legal counsel or non-lawyer personal advisor (who is not a participant or witness) to seek advice, but such counsel or advisor shall not participate in meetings with the Informal Inquirer, or the Investigation Director or review panel, without prior approval of the Informal Inquirer or the Investigation Director.

The Informal Inquirer must prepare a written report that includes the following information:

1. The name and position of the Respondent;
2. A description of the allegations of Research Misconduct;
3. The funding agency (i.e., Federal Public Health Service, etc.) support, if applicable, including grant numbers, grant applications, contracts and publications listing the funding agency's support;
4. The basis for recommending that the alleged actions warrant an investigation.

Prior to making a decision on whether an investigation is warranted, the Informal Inquirer must provide the Respondent with five (5) business days to review and comment on the inquiry report and attach any comments to the report.

The Informal Inquirer must notify the Respondent whether the informal inquiry found that an investigation is warranted. The notice must include a copy of the informal inquiry report and include a copy of this policy.

The Informal Inquirer must notify the Complainant who made the Allegation whether the informal inquiry found that an investigation is warranted and may provide relevant portions of the informal inquiry report to the Complainant for comment.

The Informal Inquirer shall provide a copy of the informal inquiry report and make a recommendation as to whether an investigation is warranted, to the Vice President for Research. The Vice President for Research, in consultation with the Office of the General Counsel and applicable Dean (in cases where the Respondent is a graduate student, this is the Dean of the Graduate College), shall make a determination of whether an Investigation is warranted.

Time for completion: The Informal Inquirer must complete the informal inquiry within sixty (60) calendar days of its initiation, unless circumstances clearly warrant a longer period. If the inquiry takes longer than sixty (60) days, the Informal Inquirer must include documentation of the reasons for exceeding the sixty (60) day period.

### **Stage 3: Investigation**

An Investigation is a formal development of a factual record and the examination of that record leading to a finding with respect to Research Misconduct.

Within thirty (30) days of finding that an Investigation is warranted, the Informal Inquirer, or the Informal Inquirer's designee, shall commence an investigation as the Investigation Director and must, in consultation with the Vice President for Research and the Office of the General Counsel:

1. To the extent not already done, take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct investigation, inventory the records and evidence, and sequester them in a secure manner. Where research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments.
2. Notify the Respondent in writing of the Allegations and that it has been determined that an investigation is warranted.
3. If the Allegation involves Federal PHS activities, promptly and timely provide a copy of the written report to the U.S. Department of Health & Human Services, Office of Research Integrity (ORI).

Selection of the Review Panel: The Investigation Director promptly shall, in consultation with the Vice President for Research, appoint a Review Panel of three or five (3-5) academically qualified and impartial members. At least one member of the Review Panel must be unaffiliated with the department in which the research misconduct allegedly occurred. 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. Promptly after the Review Panel is appointed, the Investigation Director shall give notice of the composition of the Review Panel to the Respondent and provide a period of seven (7) calendar days to allow the Respondent to challenge in writing the 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. The Review Panel is charged with ensuring an impartial and unbiased investigation to the maximum extent practicable, including participation of persons with appropriate scientific expertise who do not have unresolved personal, professional, or financial conflicts

of interest with those involved in the investigation. An attorney in the Office of General Counsel, or their designee, will train the members of the Review Panel and the Investigation Director on conducting an impartial and effective investigation.

Material to be Provided to the Panel: The Respondent shall 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, such as electronic databases and files, as required by the Review Panel. In the event the Respondent fails to respond or otherwise cooperate, the Review Panel shall continue its inquiry insofar as is feasible.

Interviews: The Review Panel must interview the Respondent, Complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the Respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation

Participation of the Respondent: The Respondent 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 Respondent resigns or refuses to participate, the Review Panel shall continue the inquiry.

Pursue leads: The Review Plan must pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

Investigation Report: The Review Panel must prepare an investigation report in writing that includes:

1. A description of the specific Allegations for consideration in the investigation;
2. A description of the funding agency support, if applicable, including any grant numbers, grant applications, contracts, and publications listing funding agency support;
3. A copy of the Misconduct in Research policy;
4. A summary of the research records and evidence reviewed and any evidence taken into custody but not reviewed;
5. For each separate Allegation identified during the investigation, a finding as to whether research misconduct did or did not occur and if so, whether the research misconduct was falsification, fabrication or plagiarism, and if it was intentional, knowing or in reckless disregard;
6. A summary of the facts and analysis which support the conclusion, taking into consideration the merits of any reasonable explanation by the Respondent;
7. Whether any publications need correction or retraction;
8. The identity of the person(s) responsible for the misconduct; and
9. Any current support or known applications or proposals for support that the Respondent has pending.

Prior to finalizing the investigation report, the Research Panel will provide a copy of the investigation report to the Respondent and Complainant for their comment. The Research Panel must provide the Respondent a

copy of, or supervised access to, the evidence on which the report is based. The comments of the Respondent and Complainant must be submitted within thirty (30) days from the date they each receive a copy of the investigation report. The comments made by the Respondent and Complainant on the investigation report must be included with the investigation report.

Notification of the Provost: Within ten (10) calendar days of receiving the full report of the Review Panel, the Investigation Director shall forward the report to the Vice President for Research, the applicable Dean (in cases where the Respondent is a graduate student, this is the Dean of the Graduate College), and the Provost. The Investigation Director shall recommend to the Provost an appropriate course of action. The Provost, in consultation with the Vice President for Research and Office of the General Counsel, shall decide whether to accept or reject the findings of the Review Panel, or whether further investigation is needed. The Provost may appoint a new Review Panel to reopen the Investigation. The Investigation is completed when the Provost makes this determination.

Notice to ORI: If the Allegation involves Federal PHS activities, the Provost, in consultation with the Vice President for Research, and the Office of the General Counsel, must provide a copy of the final investigation report to ORI and state whether UVM found research misconduct, and if so, who committed the misconduct and whether UVM accepts the investigation's findings. The notice to ORI must also describe any pending or completed administrative actions against the Respondent.

Time limits: The investigation must be completed within one hundred twenty (120) days of beginning it, including conducting an investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to ORI, if required. If unable to complete the investigation in one hundred twenty (120) days and the Allegation involves Federal PHS activities, the institution must ask ORI for an extension in writing.

### **Subsequent Actions.**

Disciplinary Action: Administrative action as a result of a finding of Research Misconduct may include withdrawal or correction of all pending or published abstracts and papers emanating from the research where Research Misconduct was found; removal of the Respondent from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment.

Procedures in this policy are not, however, intended to supersede procedures outlined in the Faculty Handbook, Code of Student Conduct Policy, the discipline articles of applicable labor contracts, or other relevant UVM policies and procedures. Individual(s) guilty of Research Misconduct may also be expected personally to make restitution as appropriate under the circumstances of the case.

Notification of Outside Parties: When there has been a finding that Research Misconduct occurred, the Provost may, as appropriate, notify external sponsors, law enforcement agencies, professional societies, professional licensing boards, journals, collaborators of the Respondent, or other parties with a legitimate need to know the outcome of the proceeding.

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, in consultation with the applicable Dean (in cases where the Respondent is a graduate student, this is the Dean of the Graduate College) and Vice President for Research, 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. To the extent of any conflict between this policy and federal law or regulation, the federal law or regulation shall be controlling.

Evidentiary Standards: A finding of research misconduct must be proved by a preponderance of the evidence, meaning proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not (i.e., 51% proof). UVM has the burden of proof for making a finding of research misconduct. The destruction, absence of, or Respondent's failure to provide research records adequately documenting the questioned research is evidence of research misconduct where UVM establishes by a preponderance of the evidence that the Respondent intentionally, knowingly, or recklessly had research records and failed to produce them in a timely manner and that the Respondent's misconduct constitutes a significant departure from accepted practices of the relevant research community.

The Respondent has the burden of proving, by a preponderance of the evidence, any affirmative defenses raised, such as honest error, and any mitigating factors that are relevant to a decision to impose administrative actions following a research misconduct proceeding.

Retaliation is Prohibited: The University will take all reasonable and practical steps to protect the positions and reputations of good faith Complainants, witnesses, Informal Inquirer, Investigation Director, and review panel members and protect them from retaliation by the Respondent and other institutional members. Retaliation means an adverse action taken by an institution or one of its members in response to a good faith Allegation of Research Misconduct or good faith cooperation with a Research Misconduct Proceeding.

Good faith, as applied to the Complainant or witness, means having a belief in the truth of one's allegations or testimony that a reasonable person in the Complainant's or witness's position could have based on the information known to the Complainant or witness at that time. Good faith, as applied to the Informal Inquirer, Investigation Director, and review panel members means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping the University meet its responsibilities under the policy and under the law.

If a Complainant or witness 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, appropriate disciplinary action may be taken by the University. If an Informal Inquirer, Investigation Director or review panel member does not act in good faith because his or her acts are dishonest, or influenced by personal, professional or financial conflicts of interest, appropriate disciplinary action may be taken by the University.

## **Confidentiality and Record Keeping.**

Confidentiality During Proceedings: Disclosure of the identity of Respondents and Complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective and fair research misconduct proceedings, and as allowed by law.

Records of Proceedings Where There is No Finding of Research Misconduct: All records, documents, and the like relative to proceedings that terminate without a finding of research misconduct shall be maintained

confidentially in the office of the Vice President for Research. The records and documents shall be sealed, and filed under the name of the Respondent, 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 Respondent.

Records of Proceedings Where There is a Finding of Research Misconduct: All records relative to proceedings where there is a Finding of Research Misconduct shall be maintained in the office of the Vice President for Research.

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. Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be identified. Disclosure is limited to those who have a need to know to carry out a research misconduct proceeding.

Maintenance of Records: All records, documents, and the like submitted, generated, or otherwise developed in connection with proceedings under this policy shall be maintained for at least seven (7) years after termination of the research misconduct proceedings.

**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.

## Contacts

<b>Questions concerning the daily operational interpretation of this policy should be directed to the following (in accordance with the policy elaboration and procedures):</b>	
<b>Title(s)/Department(s):</b>	<b>Contact Information:</b>
Executive Director for Research Administration Research Support and Integrity	340 Waterman Building (802)-656-3360

## Forms/Flowcharts/Diagrams

- None

## Related Documents/Policies

- [Financial Conflict of Interest in Sponsored Research](#)
- Collective Bargaining Agreements
  - [Teamsters](#)
  - [United Academics full-time unit \(AAUP/AFT\)](#)
  - [United Academics part-time unit \(AAUP/AFT\)](#)
  - [United Electrical Workers](#)
  - [UVM Staff United](#)

## Regulatory References/Citations

- None



## Training/Education

Training will be provided on an as-needed basis as determined by the Approval Authority or the Responsible Official.

## About This Policy

<b>Responsible Official:</b>	Vice President for Research	<b>Approval Authority:</b>	President
<b>Policy Number:</b>	V.6.5.5	<b>Effective Date:</b>	April 17, 2019
<b>Revision History:</b>	<ul style="list-style-type: none"><li>• V.3.2.6.1 Misconduct in Research and Other Scholarly Activities - Interim approved May 5, 2008</li><li>• V. 3.2.6.2 Alleged Misconduct In Research and Other Scholarly Activities - Interim approved May 27, 2009</li><li>• V.6.5.3/V.3.2.6.3 Misconduct In Research and Other Scholarly Activities approved September 7, 2010</li><li>• V.6.5.4 Interim policy approved January 30, 2019</li><li>• Reaffirmed May 26, 2022</li></ul>		

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