



FLORIDA	OFFICIAL
POLYTECHNIC	UNIVERSITY
UNIVERSITY	ACADEMIC POLICY

Subject/Title: Research Misconduct
FPU Policy Number: FPU-12.0013AP
<input checked="" type="checkbox"/> New Policy <input type="checkbox"/> Major Revision of Policy <input type="checkbox"/> Minor Technical Revision of Policy
Date First Adopted: October 9, 2020
Date Revised:
Responsible Division/Department: Academic Affairs
Initiating Authority: Office of the Provost

A. APPLICABILITY/ACCOUNTABILITY:

This policy governing research misconduct is applicable to all members of the University community. In this policy the University designates institutional officers responsible for receiving allegations of research misconduct and creates a process for resolving such allegations.

B. POLICY STATEMENT:

Responsible conduct in research is critically important to everyone at Florida Polytechnic University. Unethical practices can have a campus-wide effect. Not only must individual scientists behave in a trustworthy manner, scientists must also take collective responsibility for detecting, judging, and controlling research misconduct. However, in the event there is reason to suspect misconduct, that information must be brought to the attention of individuals responsible for assuring that scientists are behaving ethically.

C. DEFINITIONS:

Allegation means a disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement or other communication to an institutional official.

Complainant means a person who in good faith makes an allegation of Research Misconduct.

Days means business days, not calendar days.

Deciding Official (DO) means the institutional official who makes final determinations on Allegations of Research Misconduct and any institutional administrative actions. The Deciding Official must not be the same individual as the Research Integrity Officer. At the University, this is the Provost, or designee.

Inquiry means preliminary information-gathering and preliminary fact-finding to determine whether an Allegation warrants an Investigation.

Inquiry Committee means the group of people responsible for conducting the Inquiry. The RIO, University's Chief Compliance Officer and Chief Audit Executive, and the Vice Provost for Assessment and Instruction comprise the Inquiry Committee. If any member of the

Inquiry Committee is the Complainant or Respondent or is determined to otherwise have a conflict of interest, the Provost will appoint a new member in the conflicted member's stead.

Investigation means the formal development of a factual record and the examination of that record leading to: (1) a decision not to make a finding of Research Misconduct, or (2) to a recommendation for a finding of Research Misconduct that may include a recommendation for other appropriate actions, including administrative actions.

Investigation Committee (IC) means the group of people responsible for conducting an Investigation. Three (3) members of the faculty holding the rank of Associate Professor or higher will be selected at random to comprise the IC. Members sharing a department or directly engaged in research with any Complainant or Respondent will be disqualified. Individuals selected for the IC must disclose any potential conflict of interest to the University's General Counsel. If a valid conflict is found, an alternate selection will be made. The Director of Institutional Research will chair the committee but will not have a vote.

Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Research Integrity Officer (RIO) means the University official responsible for: (1) assessing allegations of Research Misconduct to determine whether they fall within the definition of Research Misconduct and that the Allegation is sufficiently specific so that potential evidence of Research Misconduct may be identified; and (2) overseeing inquiries and investigations; and (3) the other responsibilities described in this policy. Except if designated differently by the Provost, the University RIO is the Director of Sponsored Programs.

Research Misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research Misconduct does not include honest error or differences of opinion.

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.

Research Misconduct proceeding means any actions related to alleged Research Misconduct, and also including but not limited to, Allegation or Retaliation assessments, Inquiries, Investigations, hearings and review proceedings of any form regarding Research Misconduct.

Research Record means the record of data or results in any form that embodies the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials considered in the course of the Research Misconduct Proceeding.

Respondent means the person against whom an Allegation is directed or who is the subject of a Research Misconduct Proceeding. The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an Inquiry or Investigation.

Retaliation (and *Retaliated*) means an adverse action taken against a Complainant, witness, or committee member by the University or its employees in response to (1) an Allegation; or (2) good faith cooperation with a Research Misconduct Proceeding.

D. PROCEDURES:

- 1) Allegations of Research Misconduct must be reported immediately. Written Allegations, including those submitted electronically, must be signed by the Complainant. In the event that an Allegation is made verbally, the RIO or designee will promptly reduce it to writing. The University will maximize, to the extent possible, Complainant's confidentiality.
- 2) Upon receiving an Allegation, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified and whether the Allegation falls within the definition of Research Misconduct. An Inquiry must be conducted if these criteria are met. The RIO must conduct this assessment within 5 days. No interviewing of the Complainant, Respondent(s), or other witnesses, nor gathering of additional data is required at this stage except to determine whether the Allegation is specific and credible. The RIO, on or before the date the Respondent is notified of the Allegation, must obtain custody of, inventory, and sequester all research records and evidence needed to conduct an Inquiry or Investigation.
- 3) If the RIO is the Respondent, the Provost will appoint another RIO for the matter; if the Respondent is the DO, the President will make the appointment.
- 4) The Inquiry Committee will conduct an Inquiry, including informal consultation with the Respondent into the circumstances of the Allegations and will determine whether there are sufficient grounds indicating whether Investigation is warranted. The Respondent will be informed of the nature of the Allegation in all cases. The Respondent must not attempt to influence the Inquiry in any way. The RIO will provide notification to the DO that an Inquiry is being conducted. The University will protect the privacy of those who make Allegations to the greatest extent possible. For example, if the Complainant requests anonymity, an effort will be made to honor the request during the Inquiry within applicable policies and regulations and state and local laws. The RIO will attempt to complete this Inquiry within 7 days.
- 5) If, after the Inquiry, the Inquiry Committee finds by a majority vote sufficient evidence to suggest that the Allegations may be true, and after notice to the DO, the RIO will convene an IC. If the IC finds the evidence to be insufficient, the RIO will document that determination, notify the Complainant, Respondent, and the DO. If the DO does not act within 5 days, the Inquiry will be closed; otherwise the DO will direct the RIO to appoint an IC and proceed with an Investigation.
- 6) If the Respondent has not already been notified by the time the IC is appointed, the RIO will inform, in writing, the Respondent(s) about the Allegation(s) and that an Investigation is to be conducted. This statement must include information on the nature of the Allegation(s) and the focus of the Investigation, and must inform the Respondent(s) of the opportunity to defend their conduct and provide comments and other relevant information to the IC. Respondent(s) will be informed of their right to passive assistance of their own attorney in preparing and/or giving their response in this and all subsequent phases of the investigation. The statement must also carefully inform the Respondent that retaliation of any form is not appropriate, and that he or she must not interfere with the investigation. Retaliation or interference must be considered as a separate item that must be addressed by the University.
- 7) The RIO will inform Office of the General Counsel of each individual under Investigation. The RIO, with the assistance of the Office of Research Services, also will inform the agency sponsoring the research if such action is required by the agency.

- 8) The IC will conduct an Investigation of all relevant facts to determine if, by a preponderance of the evidence, Research Misconduct has occurred. The IC may use advice of the Office of General Counsel on procedures and other matters pertaining to the Investigation. The IC may call witnesses, examine research data (both published and unpublished), and seek expert counsel both inside and outside the university to aid in the Investigation. Evidence may be used in the Investigation that is inadmissible in a judicial proceeding.
- 9) The IC will attempt to complete its investigation within 120 days from its appointment. All individuals involved in the Investigation will maintain confidentiality of information to the fullest extent allowed by law.
- 10) Interim administrative actions may be taken prior to the completion of the Investigation if such actions are necessary to protect the welfare of human or animal subjects of research or to prevent the inappropriate use of funds or to protect the welfare of the University and the members of the University community.
- 11) After the IC has completed its Investigation, the RIO must submit its written draft report including findings and recommendations in writing to the Respondent for the Respondent to respond to the comments within 25 days; the Respondent's comments must be included in the IC's final report and submitted by the RIO to the DO.
- 12) The DO will make a written final decision and transmit it to the RIO. This decision will either accept the IC's findings and recommended actions and determines the University's response, deviate from the IC's report, or refer the report back to the IC for further fact-finding or analysis. If the DO deviates from the IC's recommendation, the DO will explain in detail the basis for rendering a different decision.
- 13) The RIO will notify the Complainant, Respondent(s), and relevant federal authorities in writing of the University's decision.
- 14) If the IC's findings fail to confirm an instance of Research Misconduct, the Complainant(s), the Respondent(s), the DO, and the Director of Sponsored Programs (except when the Director of Sponsored Programs is the RIO) must be so informed by the RIO.
- 15) Upon completion of an Investigation, if the DO determines that no instance of Research Misconduct has occurred, the RIO will consult with the Respondent(s) and will undertake reasonable efforts to restore the Respondent(s)' reputation. Depending on the particular circumstances, the RIO should publicize the final outcome in forums in which the Allegation was previously publicized and consider removing any reference to the Allegation from the Respondent's personnel file. Any actions to restore the Respondent's reputation must first be approved by the Provost.
- 16) If the DO finds by a preponderance of the evidence that Research Misconduct has occurred, the following actions must be taken by the RIO within 100 days unless the receiving entity grants an extension or an appeal is filed:
 - a. The agency sponsoring the research, if any, must be informed of the findings of the Investigation;
 - b. Any governmental agencies requiring notice of Research Misconduct must be similarly notified even if none of that agency's funds were used on the particular project (e.g. notification to NSF if required by NSF regulations, even if the specific project is not NSF-funded)
 - c. Publishers and editors of journals must be informed if manuscripts emanating from fraudulent research have been submitted or published; and

- d. Disciplinary actions taken as a result of a finding that Research Misconduct has occurred must be consistent with collective bargaining for in-unit members and with disciplinary policies for students and staff.

17) Retaliation against a Complainant or witness is prohibited. Claims of Retaliation must be reported to the RIO except if the claim is made against the RIO, then to the DO. The RIO (or DO) will consider the claim and, if the RIO determines the claims to be within the scope of Retaliation, will refer the matter to the IC. Any employee determined, by the IC using a preponderance of the evidence standard, to have retaliated will be subject to discipline that may include termination.

18) False claims of Research Misconduct or of Retaliation, including any in bad faith, are prohibited. If the RIO concludes a claim of Research Misconduct was not in good faith, it will refer the matter to the IC if further review is warranted, or to the DO, for any administrative action, if any, may be taken. Likewise, the IC may refer any claims not in good faith to the DO. False Claims that are made in bad faith will result in discipline including termination if appropriate.

19) The disposition of an Allegation of Research Misconduct may be appealed to the President whose decision will be final. The appeal must be completed within 100 days of the DO's determination. Referral of the investigative report to the authorities described in paragraph 16 of these procedures must be completed within 100 days of conclusion of the appeal.

E. RELATED INFORMATION

Inquiries and Investigations will be conducted in a manner that will ensure fair treatment of the Respondent in an Inquiry or Investigation. Committee members, the RIO, and the DO will treat the Respondent with respect and will protect the Respondent's confidentiality to the extent possible without compromising public health and safety or the thoroughness of the Inquiry or Investigation. The University will not comment publicly on an Inquiry or Investigation in progress. No Complainant, Respondent, member of the Inquiry Committee, member of the IC, the RIO, nor the DO may tamper with or otherwise attempt to influence the decision of any other person governed by this policy.

ACADEMIC POLICY APPROVAL	
Academic Policy No.: <u>FPU-12.0013AP</u>	
Initiating Authority	Date
Academic Policies Committee Chair	Date
Vice President of Academic Affairs	Date
President/Designee	Date
Approved by FPU BOT, if required	Date
EXECUTED SIGNATURE PAGES ARE AVAILABLE IN THE OFFICE OF THE GENERAL COUNSEL	