

# Responding to Allegations of Research or Scholarly Misconduct

## Academic Affairs – Research

### CWU Policy 502-05

**Effective:** June 13, 2018

**Policy Review Date:** YEAR

**Policy Executive:** Chief of Staff

**Responsible Office/Unit:** Provost Office

#### **Policy Statement:**

#### **Applicability:**

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#### **Content:**

Policy

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#### **(1) Mission.**

- A. Misconduct in research/scholarship runs contrary to Central Washington University’s mission as an institution of higher education, undermines the public trust placed in the research enterprise of our nation’s colleges and universities, and wastes valuable public and private resources. Therefore, it is the policy of Central Washington University to neither condone nor tolerate research/scholarly misconduct by any member of its community.

#### **(2) Scope.**

- A. This policy is intended to carry out CWU’s responsibilities under the Public Health Service (PHS) Policies on Research Misconduct, as well the corresponding policies on research/scholarly misconduct of a variety of federal funding agencies.
- B. This policy applies to allegations of research/scholarly misconduct (fabrication, falsification, or plagiarism) in proposing, performing, or reviewing research, or in reporting research results involving a person who, at the time of the alleged research/scholarly misconduct, was employed by, was an agent of, was under the authority of, or was affiliated by contract or agreement with CWU. This policy applies to all members of the university community, including faculty, staff, and graduate and undergraduate students.
- C. Research/scholarly misconduct (as defined in this policy) is a specific instance of impropriety

within the broader domain of personal and professional conduct. Allegations of misconduct outside the scope of this policy should be directed to the appropriate department chair, dean, director, vice president, Faculty Senate, or other University official. In cases where students are alleged to have committed plagiarism, falsification, or fabrication in scholarship/research, the Research Integrity Officer (RIO) and Dean of Student Success will decide which process will be followed to be consistent with the WACs for student conduct. In cases where classified, exempt, or temporary staff are alleged to have committed plagiarism, falsification, or fabrication in scholarship/research, the RIO and the staff member's supervisor and/or Principal Budget Authority will decide which process will be followed to preserve staff rights. This policy does not distinguish between funded and unfunded research/scholarly activities, except where it refers to specific agency requirements, and does not apply to authorship or collaboration disputes.

### (3) Definitions.

- A. **Deciding Official/DO:** The DO is provost and vice president for academic and student life, or his/her designee as assigned by the president. The Deciding Official (DO) is the institutional official who makes final determinations on allegations of research/scholarly misconduct and any institutional administrative actions. The DO will not be the same individual as the Research Integrity Officer (RIO) and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. A DO's appointment of an individual to assess allegations of research/scholarly misconduct, or to serve on an inquiry or investigation committee, is not considered to be direct prior involvement.
- B. **Fabrication:** Fabrication is making up data or results and recording or reporting them.
- C. **Falsification:** 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.
- D. **Inquiry:** Inquiry means gathering information and initial fact-finding to determine whether an allegation or suspected research/scholarly misconduct warrants an investigation.
- E. **Investigation:** 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/scholarly misconduct, or
  - 2. A recommendation for a finding of research/scholarly misconduct which may include a recommendation for other appropriate actions, including administrative actions.
- F. **ORI:** ORI is the Office of Research Integrity of the Public Health Service (PHS), a federal office promoting integrity in biomedical and behavioral research supported by the PHS by monitoring institutional investigations of scientific misconduct and facilitating the responsible conduct of research.
- G. **Plagiarism:** Plagiarism means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- H. **Research Integrity Officer:** The RIO is the Dean of the School of Graduate Studies and Research (SGSR) or his/her designee assigned by the president. Research Integrity Officer (RIO) means the institutional official responsible for:

1. Assessing allegations of research/scholarly misconduct to determine if they fall within the definition of research/scholarly misconduct and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research/scholarly misconduct may be identified;
  2. Overseeing inquires and investigations; and
  3. Other responsibilities as described in this policy.
- I. **Research/scholarly misconduct:** Research/scholarly misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. It does not include honest error or differences of opinion. A finding of research/scholarly misconduct requires that there be a significant departure from accepted practices of the relevant research community; that the misconduct be committed intentionally, knowingly, or recklessly; and that the allegation be proven by a preponderance of the evidence.
- J. **Respondent:** Respondent means the person against whom an allegation of research/scholarly misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

#### **(4) Responsibility to report misconduct.**

- A. All institutional members have an explicit duty to report observed, suspected, or apparent research/scholarly misconduct to the RIO. An allegation of misconduct in research/scholarship, defined as a disclosure of possible research/scholarly misconduct through any means of communication, should be made to the Dean of the School of Graduate Studies and Research, who is the university's RIO. Promptly after receiving a disclosure of possible research/scholarly misconduct through any means of communication, the RIO shall assess the allegation to determine if an inquiry will be conducted. An inquiry is warranted if:
1. It meets the definition of research/scholarly misconduct;
  2. It involves either the research, applications for research support, or research records; and,
  3. The allegation is sufficiently credible and specific so that potential evidence of research/scholarly misconduct may be identified.

#### **(5) Inquiry.**

- A. Appointing the inquirer.
1. The RIO shall appoint an inquirer who shall complete the inquiry within 60 calendar days of its initiation, unless circumstances warrant a longer period. The inquirer shall conduct the review, prepare the inquiry report, solicit comments on the report from the respondent, consider the respondent's comments, and issue the final inquiry report within the 60 day period. If the inquiry takes longer than 60 days to complete, the inquirer shall include documentation of the reasons for the delay in the inquiry record.
  2. The purpose of the inquiry is to determine whether there is reasonable cause to believe misconduct occurred and whether a formal investigation is recommended.

3. Upon appointment, the inquirer will receive a briefing from the RIO and the University Legal Counsel on the relevant misconduct guidelines, federal regulations, and the legal parameters of the inquiry.
- B. The inquiry report.
1. The inquiry report shall contain the following information:
    - a. The name and position of the respondent(s);
    - b. A description of the allegations of research/scholarly misconduct;
    - c. The federal or sponsor support involved, including, for example, grant numbers, grant applications, contracts, and publications listing support;
    - d. The basis for recommending that the alleged actions warrant an investigation; and
    - e. Any comments on the report by the respondent or the complainant.
- C. The inquiry determination.
1. The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination. In making his or her determination, the DO may take into account the information provided by the inquirer and any oral or written statements made by the person accused of misconduct. The DO may choose not to proceed with an investigation if there is no reason to believe the misconduct occurred or if the person accused of misconduct admits the misconduct occurred and it is determined that an investigation will not likely uncover further information necessary to reach a final conclusion regarding the allegation. The inquiry determination period should be brief, preferably concluded within a week.
  2. The RIO shall notify the person who reported the alleged misconduct and the person accused of misconduct of the DO's determination and recommendations in writing. If an investigation is to be conducted, the notification shall include a clear statement of the allegations to be investigated. If a decision not to investigate is rendered, the complainant may appeal the decision of the DO to the President who will render the final decision of the University. The complainant must file a written appeal within 30 days of the committee's completion of the investigation report.
  3. The RIO will notify granting agencies supporting the research/creative activity under investigation as may be required by the granting agency, state or federal law or regulations.

## **(6) Investigation.**

- A. Appointment of Investigators.
1. If the inquiry results in a determination that an investigation is warranted, the RIO shall appoint investigators to conduct the investigation. The investigator may be either:
    - a. A group of institutions, professional organizations, or mixed groups which will conduct research/scholarly misconduct proceedings for other institutions, or

- b. Other persons that the RIO reasonably determines to be qualified by practice or experience to conduct research/scholarly misconduct proceedings.

## B. Investigation Timelines

1. The appointed investigator(s) shall begin the investigation within 30 calendar days of the RIO's written determination. On or before the date on which the investigation begins, the RIO will send the inquiry report and the written determination to the Office of Research Integrity [ORI], or other federal agency, if required under federal regulations.
2. The investigation is to be completed within 120 days of its initiation, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to ORI (for PHS funded activities) or other pertinent agencies as required by regulation. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit to ORI (or other pertinent agency as required by regulation) a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with ORI (or other pertinent agency as required by regulation), if ORI/other pertinent agency grants the request for an extension and directs the filing of such reports. This time period does not apply to separate personnel actions which may be undertaken as a result of the investigation.

## C. Conduct of the investigation.

1. In conducting all investigations, CWU shall:
  - a. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all reasonably available research records and evidence relevant to reaching a decision on the merits of the allegations;
  - b. Interview each 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 investigation;
  - c. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation by the investigator(s), including any evidence of additional instances of possible research/scholarly misconduct, and continue the investigation to completion; and
  - d. Otherwise comply with the requirements for conducting an investigation in the federal regulations that may apply based upon the funding source for the research/scholarship.

## D. Requirements for findings of research/scholarly misconduct.

1. A finding of research/scholarly misconduct under this policy requires that:
  - a. There is a significant departure from accepted practices of the relevant research community; and
  - b. The misconduct was committed intentionally, knowingly, or recklessly; and

- c. The allegation of misconduct is proven by a preponderance of the evidence.

E. Investigation report.

1. The Investigator(s) shall prepare the draft and final institutional investigation reports in writing and provide the draft report for comment by respondent in a manner consistent with applicable federal regulations. The final investigation report shall:
  - a. Describe the nature of the allegations of research/scholarly misconduct;
  - b. Describe and document the federal, state or private financial support, including, any grant numbers, grant applications, contracts, and publications listing federal, state or sponsor support;
  - c. Describe the specific allegations of research/scholarly misconduct considered in the investigation;
  - d. Include the institutional policies and procedures under which the investigation was conducted;
  - e. Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody, but not reviewed. The report should also describe any relevant records and evidence not taken into custody and explain why.
  - f. Provide a finding as to whether research/scholarly misconduct did or did not occur for each separate allegation of research/scholarly misconduct identified during the investigation, and if misconduct was found,
    - i. Identify it as falsification, fabrication, or plagiarism and whether it was intentional, knowing, or in reckless disregard,
    - ii. Summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent's explanations,
    - iii. Identify the specific federal, state or other grant support for the research/scholarship;
    - iv. Identify any publications that need correction or retraction;
    - v. Identify the person(s) responsible for the misconduct, and
    - vi. List any current support or known applications or proposals for support that the respondent(s) has pending with federal, state or private agencies; and
    - vii. Include and consider any comments made by the respondent and complainant on the draft investigation report.
  - g. Upon receipt of the report, the DO shall determine whether the institution accepts the findings in the report. If any finding is not accepted, the finding and the reasons why it is not accepted shall be identified and included in a written report by the DO.
  - h. CWU shall maintain and provide to ORI upon request all relevant research records and records of our research/scholarly misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.

## **(7) Confidentiality and protection of reputations.**

- A. The RIO shall make all reasonable and practical efforts to maintain confidentiality, consistent with federal regulations and institutional policy, and to:
  - 1. Limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research/scholarly misconduct proceeding; and
  - 2. Except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research/scholarly misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.
  - 3. Following a final finding of no research/scholarly misconduct, including ORI or other pertinent agency concurrence, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research/scholarly misconduct was previously publicized, and expunging all reference to the research/scholarly misconduct allegation from the respondent's personnel file. Any institutional actions to restore the respondent's reputation should first be approved by the DO.

## **(8) Appointment of impartial inquirer or investigator.**

- A. CWU shall take all reasonable steps to ensure an impartial and unbiased research/scholarly misconduct proceeding to the maximum extent practicable. CWU shall select those conducting the inquiry or investigation on the basis of subject expertise that is pertinent to the matter and, prior to selection, the RIO or designee shall screen them for any unresolved personal, professional, or financial conflicts of interest with the respondent, complainant, potential witnesses, or others involved in the matter. Any such conflict which a reasonable person would consider to demonstrate potential bias, shall disqualify the individual from selection.
- B. A respondent may request disqualification of an inquirer or investigator upon filing of a timely and sufficient affidavit of personal bias, lack of independence, or other basis for disqualification. The affidavit must state the facts and the reasons for the belief that the inquirer or investigator should be disqualified and must be filed not less than 5 days from the date the respondent receives notice of appointment of the inquirer or investigator. The RIO shall determine the matter and submit a written decision on the request for disqualification.

## **(9) Notice to respondent.**

- A. During the research/scholarly misconduct proceeding, CWU will provide the following notifications to all identified respondents:
  - 1. Initiation of inquiry.
    - a. Prior to or at the beginning of the inquiry, the RIO shall provide the respondent(s)

with written notification of the inquiry and contemporaneously sequester all research records and other evidence needed to conduct the research/scholarly misconduct proceeding. If the inquiry subsequently identifies additional respondents, they shall be promptly notified in writing.

2. Comment on inquiry report.
  - a. The inquirer shall provide the respondent(s) an opportunity to comment on the inquiry report in a timely fashion so that any comments can be attached to the report.
3. Results of the inquiry.
  - a. The inquirer shall notify the respondent(s) of the results of the inquiry and attach to the notification copies of the inquiry report and these institutional policies and procedures for the handling of research/scholarly misconduct allegations.
4. Initiation of investigation.
  - a. Within a reasonable time after the DO's determination that an investigation is warranted, but not later than 30 calendar days after that determination, the DO or designee shall notify the respondent(s) in writing of the allegations to be investigated. The DO or designee shall give respondent(s) written notice of any new allegations within a reasonable time after determining to pursue allegations not addressed in the inquiry or in the initial notice of the investigation.
5. Scheduling of interview.
  - a. The investigator(s) will notify the respondent sufficiently in advance of the scheduling of his/her interview in the investigation so that the respondent may prepare for the interview and arrange for the attendance of legal counsel, if the respondent wishes.
6. Comment on draft investigation report.
  - a. The investigator(s) shall give the respondent(s) a copy of the draft investigation report, and concurrently, a copy of, or supervised access to, the evidence on which the report is based and notify the respondent(s) that any comments must be submitted within 30 days of the date on which he/she received the draft report. The Investigator(s) shall ensure that these comments are included and considered in the final investigation report.
7. Appeal.
  - a. Respondent shall be advised of his/her right to appeal the findings of the investigative report. The respondent may appeal the findings of the Investigative Report to the DO by filing a written appeal with the DO within 30 days of receipt of the report. The grounds for appeal would be that the report is not supported by the evidence, the policies were misapplied to the evidence or that new evidence that was not available to the Investigator should be considered in reaching a final decision. The respondent shall be given timely notification of the appeal process. Any appeal process must be completed within 120 days unless the institution has requested and received an extension from ORI. This 120 day deadline does not apply to institutional termination hearings that are conducted separately from the appeal process.

**(10) Notice to ORI or other pertinent agencies of institutional findings and actions.**

- A. Unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation (or the 120-day period for completion of any appeal), submit the following to ORI (in the case of PHS supported activities) or other pertinent agencies as required by regulation:
1. A copy of the final investigation report with all attachments (and any appeal);
  2. A statement of whether the institution accepts the findings of the investigation report (or the outcome of the appeal);
  3. A statement of whether the institution found misconduct and, if so, who committed the misconduct; and
  4. A description of any pending or completed administrative actions against the respondent.

**(11) Maintaining records for review by ORI or other pertinent agencies.**

- A. The RIO must maintain and provide to ORI (or other pertinent agencies as required by regulation) upon request records of research/scholarly misconduct proceedings. Unless custody has been transferred to HHS or ORI (or another pertinent agency) has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven years after completion of the proceeding. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by ORI or other pertinent agency to carry out its review of an allegation of research/scholarly misconduct or of the institution's handling of such an allegation.

**(12) Completion of cases; reporting premature closures to ORI or other pertinent agencies.**

- A. Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO shall notify ORI (or the pertinent agency as required by regulation) in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except:
1. Closure of a case at the inquiry stage on the basis that an investigation is not warranted; or
  2. A finding of no misconduct at the investigation stage, which must be reported to ORI (or the pertinent federal agency), as described in this policy.

**(13) Institutional administrative actions.**

- A. If the DO determines that research/scholarly misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the RIO and other institutional officials, including the appropriate collective bargaining unit leadership. The administrative actions may include:

1. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research/scholarly misconduct was found;
2. Removal of the responsible person 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;
3. Restitution of funds to the grantor agency as appropriate; and
4. Other actions appropriate to the research/scholarly misconduct (in consultation with existing internal policies/procedures that may apply to the situation).

**(14) Other considerations.**

A. Allegations not made in good faith:

1. If relevant, the DO will determine whether the complainant's allegations of research/scholarly misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith he/she will determine, in consultation with other institutional officials, including the appropriate collective bargaining unit leadership, whether any administrative action should be taken against the person who failed to act in good faith.

B. Eventual disposition/maintenance of inquiry and investigation reports:

1. The RIO will maintain copies of all the reports for at least the period required to fulfill reporting obligations to outside agencies. The DO and President may also have and maintain copies of reports. The inquiry and investigation reports will NOT become part of the respondent's personnel file maintained by Human Resources.

**History:**

*Responsibility: President's Office; Authority: Cabinet/UPAC; Reviewed/Endorsed by: Cabinet/UPAC;  
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