



Misconduct in Research

Background

The University Community expects all individuals involved in scientific research and scholarly activity to maintain the highest ethical standards in the conduct and reporting of those activities. Faculty, staff, and students have responsibilities for ethical conduct in research and scholarly activity not only to the University, but also to the community at large, to the academic community, and to private and public institutions sponsoring the research.

These procedures are intended to govern all research and scholarly activity, whether externally funded or not, conducted at Florida Gulf Coast University (FGCU). Nothing herein shall be construed to abridge the rights of faculty under applicable state and federal law and/or the UFF Collective Bargaining Agreement.

1. Definition

Misconduct in research is defined as any failure by faculty, staff or students to comply with generally accepted ethical and legal standards for the conduct and reporting of scientific and/or scholarly research. This includes, but is not limited to:

- Fabrication, falsification, intentional misrepresentation, selective reporting, or concealment of data;
- Stealing, plagiarism, or in any other way knowingly attempting to take credit for work which is not one's own;
- Purposeful omission of any conflicting data;
- Cases of frivolous accusations;
- Failure to comply with Federal, state, local, or University regulations regarding protection of human or animal subjects; or
- Intentional misappropriation of research monies.

It does not include honest error or honest differences in interpretation or judgments of data. Student research misconduct resulting from classroom assignments remains under the purview of the instructor and is not subject to these protocols. Unethical or illegal conduct that does not involve scholarly or scientific research is outside the scope of this policy.

2. Applicability

This policy applies to individuals (other than students involved in regular classroom assignments) engaged in any form of research and scholarship, funded or otherwise, in every discipline throughout FGCU.

3. Administrative Responsibility

The Associate Vice President for Research & Dean of Graduate Studies (AVPR&DGS) will support and coordinate administration of this policy. Any cases of alleged misconduct will be brought to the attention of, and be investigated by, the Faculty Senate Grants and Research Team (GRT). Their primary responsibility is to determine if research misconduct has occurred. The Provost is responsible for taking appropriate and final action.

4. The Initial Inquiry

Any person who has reason to believe that a member of the FGCU Community has engaged in scientific or scholarly misconduct shall report that act to an appropriate University official, usually the administrative officer to whom the person charged reports, e.g., supervisor, department head, dean, or director. Allegations should be put in writing, signed, and state the specific grounds for the allegation of misconduct. Any relevant documentation supporting the allegation should be included with the complaint. Anonymous allegations will not be accepted.

The official receiving the complaint shall immediately communicate the report to the Dean of the academic unit in which the alleged misconduct occurred. The Dean is responsible for immediately informing the AVPR&DGS and the Provost of the alleged misconduct. If appropriate, and at the discretion of the Dean, AVPR&DGS, and Provost, all original research data or other documentation may be secured.

If the alleged misconduct is associated with an application seeking Federal funding or an awarded grant, the Dean must immediately notify AVPR&DGS. At any time after the allegation is made, the AVPR&DGS must notify the funding agency if it is ascertained that any of the following conditions exist:

- An immediate health hazard is involved;
- Federal funds or equipment needs to be immediately protected;
- Human or animal subjects of the activity need to be immediately protected;
- The interests of the person(s) making the allegations or the interests of the individual who is the subject of the allegations, as well as co-investigators and associates, need to be immediately protected; and/or
- The alleged incident will probably be reported publicly.

The AVPR&DGS will inform the person charged that an allegation has been made and ask for a written rebuttal. The AVPR&DGS may try to resolve the allegation promptly in an informal way. If informal resolution is not possible, the AVPR&DGS will proceed, within 30 days from the initial filing of the allegation, to the Inquiry; the first phase of the formal review process.

5. Inquiry

The AVPR&DGS will call a meeting of the GRT to conduct an informal, fact-finding inquiry to determine whether there is reasonable cause to conduct a full investigation. Upon initiating the inquiry, the AVPR&DGS will notify the person charged in writing, that an inquiry is being conducted to determine whether there is reasonable cause to initiate an investigation. The AVPR&DGS will provide the person charged with a copy of the complaint and a written statement of the investigatory procedures. The GRT will meet immediately with the complainant to discuss the allegation.

During the inquiry, the GRT will consider the content and reliability of the information (e.g., degree of specificity, supporting documentation, etc.) and any substantiated knowledge of the individuals and events associated with the possible misconduct. The GRT is authorized to consult with any person whose advice they find appropriate. Throughout the inquiry, the GRT will take reasonable steps to obtain or preserve the data necessary to make a determination in the case and to maintain the confidentiality of the person bringing the allegation.

The GRT will prepare a written report that states what evidence was reviewed, a summary of relevant interviews and the conclusions of the inquiry for the AVPR&DGS. The AVPR&DGS will

notify the complainant of the outcome of the inquiry and give them a copy of the report. If the person charged chooses to comment, the comments will be made part of the record. This written comment must be submitted to the AVPR&DGS within 10 working days after the person charged receives a copy of the inquiry report. The complainant's written comments will be included with the inquiry documents.

In the event the GRT finds no evidence of misconduct, the AVPR&DGS will notify both parties, the appropriate Dean and the Provost in writing that the charges have been dismissed and forward the records of the inquiry to those administrative offices. All parties shall maintain this record for at least three years. If the GRT recommends that no further action be taken, all records of the allegation or inquiry will be removed from the evaluation file of the person charged.

If the person making the original allegation is not satisfied with the finding of the inquiry, he or she may request through the AVPR&DGS that the GRT report be reviewed by the next higher administrative official.

The GRT's inquiry is to be completed within 60 calendar days of its initiation. If circumstances clearly warrant, an inquiry may take longer. In that case, the record of inquiry should include documentation of the reasons for exceeding the 60-day period.

In the event the conduct under inquiry is associated with an application seeking Federal funding or an awarded grant, the documentation should be sufficiently detailed to permit later assessment of the reasons for determining that an investigation was not warranted, if necessary. As warranted, the AVPR&DGS will notify any funding agency previously notified of the inquiry that the inquiry has resulted in a recommendation that no further action will take place.

6. The Investigation

If the inquiry determines there is evidence that the allegation may have basis, the AVPR&DGS will notify the appropriate Dean and the Provost in writing and forward the GRT report, all records, and evidence, to their administrative offices within 15 working days after completion of the inquiry phase.

Within 30 days of the GRT's determination that there is evidence the allegation may have basis, the Provost will appoint an ad hoc Panel of at least three persons to conduct a formal investigation of the allegation. The Panel may include members from outside the University, if it is warranted by the circumstances. The individuals selected should have some knowledge of the area of research/scholarship in question. The Panel may not include any individual who has a potential conflict of interest. The Panel will select its own chair and recording secretary.

Where required, the Provost, through the AVPR&DGS, will notify external funding agencies, as specified in their regulations, that an investigation has been initiated. The notification will be communicated to the appropriate sponsor office in writing on or before the date the investigation is to begin.

The person charged will be given written notification of the charges, including a statement that no official determination of misconduct has been made.

The investigation will include examination of all documentation, including but not limited to, relevant research data and proposals, notebooks, published and unpublished manuscripts, books and abstracts, computer printouts, correspondence, and memoranda of telephone calls.

Interviews will be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as individuals who might have information regarding key aspects of the allegations. The Panel may also solicit written evidence from other individuals both inside and outside the University. Information of a confidential nature shall not be required by the Panel except in a form that preserves its confidential character, unless a waiver can be obtained from the parties protected by the promise of confidentiality. Copies of any materials obtained will be provided to the person charged. Both the University and the person charged will have the opportunity to present evidence, call witnesses and have questions put to witnesses.

A record of the proceeding will be available to the person charged. The person charged may have counsel or a representative present during the proceedings, as an advisor only. Judicial rules governing the admissibility of evidence, authentication of documents and the like shall not govern the investigation of the Panel. If the person charged chooses to be accompanied by a lawyer, the Panel may ask the University to provide an attorney to assist the Panel.

At the conclusion of the investigation, the Panel will prepare its final report. The report will include a description of the policies and procedures under which the investigation was conducted, how and from whom relevant information was obtained, the findings, and the basis for the findings. The report will state the Panel's conclusion as to whether or not the allegation of misconduct has been substantiated. If the Panel is unable to reach a conclusion regarding the validity of the allegation, the report will indicate the reason.

The Panel will make a copy of its final report available to the person charged and allow that person 15 working days to respond to the report in writing. After receiving the response, or at the end of the 15 working days, whichever occurs first, the Panel will submit the report and, when available, the response from the person charged, to the Provost. The report will be submitted no later than forty-five (45) working days from the initiation of the investigation.

The Provost will review the Panel's report and the response of the person charged and either accept or reject the findings. In some cases, the case may be returned to the original Panel for further consideration or to a newly constituted Panel for re-review.

If the affected party is judged by the Panel not to have engaged in misconduct, the Provost will notify, in writing, all appropriate individuals and agencies, including the person charged, the Dean, the person bringing the charge, and, as appropriate, any funding agency.

If the Panel finds that scientific or scholarly misconduct has occurred, the Provost will review the report and make a preliminary determination as to the appropriate action to be taken by the University. Copies of the Panel's report will be furnished to the person charged, his/her immediate supervisor, the AVPR&DGS, and the appropriate Dean. The person making the allegation will be provided with those portions of the report that address his/her role and opinions in the investigation. If the misconduct involved an external sponsor, the AVPR&DGS will comply with sponsor requirements for notification. All findings of the proceedings will be incorporated into the personnel file of the person charged.

7. Sanctions

Formal action will be taken in accordance with the appropriate provisions of Florida Statute, FGCU rules and/or the appropriate collective bargaining agreements. Examples of such actions include, but are not limited to removal from a research project, monitoring and reporting of future research, reprimand, salary reduction, rank reduction, suspension, or termination.