

MISCONDUCT IN SCHOLARSHIP AND GRANTS MANAGEMENT POLICY & PROCEDURES

I. Introduction

A. Basic Principles. Honor in scholarship is one of the hallmarks of academia. This tradition runs especially deep in Jesuit institutions of higher education which uphold rigorous standards of ethics and values. Instances of documented misconduct in scholarly research are rare, but, nevertheless, do exist among the more than 2,000 colleges and universities nationwide. Misconduct in scholarly activities is injurious to a university's teaching, research, and public service missions and cannot be tolerated. As a result, it is fitting and proper that John Carroll University implement policies and procedures which satisfy these objectives:

1. Promote exemplary ethical standards for research and scholarship;
2. Investigate misconduct allegations in a timely manner;
3. Insure due process to all individuals involved; and
4. Preserve and protect institutional and individual reputations.

B. Protection of Rights. In all cases in which there has been an allegation of misconduct, extreme care must be taken to insure confidentiality of all parties, to the extent permitted by law, and to protect the rights of the individuals involved. This degree of care is necessary not only for a person accused of misconduct in scholarly activities (*Respondent*), but also for those persons who might provide information that would form the basis of an allegation: students, untenured faculty members, staff members, and others who might be able to provide information on a confidential basis in appropriate situations. Care must be taken to avoid a real or apparent conflict of interest for those chosen to be a part of the adjudication process. Throughout all proceedings, the University will protect the rights, the reputation and the professional and institutional standing of individuals against whom misconduct is alleged by affording them confidential treatment (as described below and except as provided by law), a prompt and thorough investigation (if warranted) and the opportunity to comment on the allegations against them and all related findings and reports.

To the extent allowed by law, any information obtained during the research misconduct proceeding that might identify the subjects of research shall be maintained securely and confidentially and shall not be disclosed, except to those who need to know in order to carry out the research misconduct proceeding.

Any individual, including the Associate Academic Vice President (AAVP), who is responsible for carrying out any part of the research misconduct proceeding shall not have unresolved personal, professional, or financial conflicts of interest with the Complainant, Respondent, or witnesses. Should the AAVP be recused from the proceedings, Associate Academic Vice President for Academic Programs and Faculty Diversity shall act for the AAVP in accordance with this policy. Should the Director of Sponsored Research be recused from the proceedings, the AAVP shall act for the Director in accordance with this policy.

II. Application

A. Faculty and Staff. This document applies to all John Carroll faculty, administrators, and non-students. The scope of the investigations called for in this policy statement is limited to that which is necessary and proper to ensure the integrity of research, the rights and interests of research subjects and the public, and the observance of any legal and policy requirements of the University and any research sponsor. The findings from these investigations may be used as the basis to initiate appropriate disciplinary procedures.

B. Students. Students may become involved in misconduct allegations by virtue of their collaboration with faculty researchers. If the students are being supported by extramural funding, they are covered by this policy statement. If the students are not being supported by extramural dollars, then such cases will be referred to the appropriate academic dean for disposition according to student appeal regulations published in the appropriate bulletin. In essence, allegations of student misconduct are administered at the level of the appropriate dean.

III. Definitions

A. Misconduct. John Carroll University adopts the U.S. Office of Research Integrity definition of research misconduct as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. John Carroll also considers misconduct to be a material failure to comply with federal and University requirements for the protection of researchers, human subjects, or the general public or for ensuring the welfare of laboratory animals. In addition, retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith is considered misconduct. Research misconduct does not include honest error or differences of opinion. Listed below are definitions of fabrication, falsification, and plagiarism.

1. Fabrication is making up data or results and recording or reporting them.
2. 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.

3. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

B. Preliminary Inquiry. The term "Preliminary Inquiry" applies to the initial exploration of an allegation or formal complaint alleging misconduct in scholarly activities. Using appropriate institutional resources as necessary, a review will be made of the information or circumstances giving rise to a suspicion of misconduct in scholarly activities; that is, the preliminary inquiry should gather information, conduct fact finding, and determine whether there are reasonable and adequate grounds to warrant a formal investigation. All explorations should be done as confidentially as possible. Immediate action should be taken to protect any data, research records or other materials involved; as appropriate, the AAVP should take custody of pertinent records, data, or other material. From the initial reporting of the alleged misconduct, the University will also protect the rights, the reputation and the professional and institutional standing of those who have reported the misconduct (the *Complainants*) insofar as this is consonant with the conduct of a fair and thorough inquiry. Anonymity of the Complainant is not guaranteed.

C. Formal Investigation. The term "Formal Investigation" applies to those circumstances where the preliminary inquiry found sufficient grounds to proceed with substantive review of possible misconduct allegations. The purpose of the "Formal Investigation" is to determine if misconduct occurred, who is responsible for it, and how serious it was. It requires an impartial and rigorous review of pertinent information and circumstances to judge the validity of the allegations. It may be necessary to seek confidential technical, financial, or legal counsel in the conduct of this investigation.

IV. Administration

Dissemination and administration of these regulations will be the responsibility of the AAVP, who will in turn have the responsibility for informing the Academic Vice President at all stages of the process. The AAVP will maintain general information on the subject of misconduct in scholarly activities and make this information available to faculty, students, and administrators of the University. Informal requests for information or guidance will not be construed as an allegation of misconduct in scholarly activities which invokes the full procedure outlined below.

V. Consequences of a Finding of Misconduct

If misconduct in research is found to have occurred, responsible faculty, staff, students, or administrators may be faced with a range of appropriate sanctions, from warning to dismissal. Disciplinary action will be taken only in accordance with applicable University rules and procedures. The sanction(s) must correspond to the severity of the confirmed deviation. In the case of faculty members, these sanctions must be consistent with the specification in the *Faculty Handbook* (Part Four, Section V, paragraph H). Misconduct involving faculty may give rise to sanctions that require involvement of the Faculty Council's Grievance Committee. Misconduct that involves students may result in disciplinary action taken in accordance with appropriate campus policies.

Nothing in these policies will preclude concurrent disciplinary proceedings or inquiries by other appropriate committees or entities into an individual's research misconduct.

Federal granting agencies may also take action against either individuals or the University itself, if misconduct is established. These actions may include, but are not limited to, letters of reprimand, suspension of an active award, and/or debarment from future awards. The federal agencies may choose to proceed in their own investigation, or may decide to act upon the University's findings.

If an allegation of research misconduct is not confirmed, the University will make reasonable efforts to restore the reputation of the individual alleged to have engaged in the misconduct.

VI. Procedures

A. Preliminary Inquiries

1. All allegations of misconduct in research originating from within or outside the University should be referred to the Associate Academic Vice President (AAVP). Written and signed allegations are preferred.
2. The AAVP will immediately contact the scholar against whom the allegation has been made (the Respondent) and the John Carroll faculty member directly responsible for supervising him or her. If the inquiry subsequently identifies additional respondents, they shall be promptly notified in writing. The AAVP will also notify the appropriate Department Chairperson and Academic Dean that a preliminary inquiry is being initiated. The AAVP will secure all research records and evidence relating to the alleged misconduct at the time of the initial notification. The records and evidence will be inventoried, sequestered in a secure manner except in those cases where the research records or evidence encompass scientific instruments shared by a number of users. During the course of the investigation and at his/her own expense, the Respondent may be advised, but not represented, by legal counsel.
3. The AAVP will then move quickly to conduct an inquiry of the alleged misconduct. The AAVP, at his/her discretion, will initially call on the expertise of one faculty from an appropriate academic area within the University. The Respondent may choose one faculty member as well, providing that person is not in conflict of interest. This delegation shall be referred to as the Ad Hoc Committee (AHC) in the remainder of this document. The AHC may solicit the advice of appropriate intramural and external consultants.
4. The AAVP shall also refer the alleged misconduct to the Director of Sponsored Research when appropriate who shall make an immediate recommendation of whether the alleged misconduct is "significant" in the sense that it deviates from sponsor or university grant guidelines. If the Director determines that it may constitute a significant deviation, he/she shall follow the reporting procedures required by law, agency guidelines, or University

policy. If the allegation of misconduct is initiated by the Director, it shall be on the basis of significant violations of institutional and/or sponsor guidelines. The Director shall be the liaison between the AHC and the sponsoring agency.

5. In the event the early phase of the inquiry suggests possible misconduct requiring a “Formal Investigation,” the AAVP will select an additional member at his/her discretion to examine the evidence relating to the inquiry; the Respondent may choose one additional faculty member as well, providing that person is not in conflict of interest. The AHC shall conduct a prompt, discreet, impartial, and thorough inquiry which includes an opportunity for the Respondent to respond. The AHC will undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding or if new allegations arise. A written and, if appropriate, documented report to the AAVP should be submitted within 60 days. A draft report, along with a copy of the Misconduct Policy & Procedures, will be given to the Respondent who shall have a reasonable time in which to provide comment.
6. If the Ad Hoc Committee determines that the allegation is frivolous, that it cannot be substantiated, and/or that there exists insufficient evidence to justify proceeding further, the inquiry shall be terminated. If the allegation appears to be raised in bad faith (knowingly making a false accusation), the AHC must recommend disciplinary action against the Complainant. Regardless of outcome, the AAVP, the officials notified, under item 2 of this section, and involved AHC members will keep the outcome confidential. The Respondent and the officials who were notified under item 2 will receive copies of the AHC’s final report and action of the AAVP. The final AHC report may be the draft report mentioned in item 5 of this section.
7. If the AHC concludes in its report that the alleged misconduct merits further investigation and appears to represent something more than trivial negligence, the AAVP shall immediately inform in writing the Respondent, his/her immediate John Carroll supervisor, the appropriate Chairperson, the Academic Dean, the Academic Vice President, and the Director of Sponsored Research, if appropriate. Any new allegations to be investigated shall be given to the Respondent along with a copy of, or supervised access to, the evidence on which the report is based. Any Respondent comments must be submitted within 30 days of the date on which the Respondent received the draft report and must be considered by the institution and included in the final report.
8. In the case of research funded by a federal agency or falling under its regulatory authority, the awarding agency will also be notified immediately (a) that a preliminary inquiry has been completed and (b) that the alleged misconduct has been judged worthy of further investigation, and that a formal investigation is in progress, or (c) that the alleged misconduct has not been judged worthy of further investigation.

B. Possible Interim Administrative Actions

Depending on the magnitude of possible misconduct, as determined by the AHC conducting the initial inquiry, especially with regard to situations concerning immediate health hazards and/or allegations of criminal conduct, the AAVP may recommend to the Academic Vice President interim administrative actions designed to protect the public or the institution. This may involve interim assurances of compliance, increased monitoring sanctions, or the immediate suspension of some or all research activities of the individual(s) against whom an allegation has been made until further investigations have been completed. Cases involving the use of federal funds will reported to the cognizant agency.

C. Formal Investigations

1. The AAVP, in consultation with members of the AHC convened to conduct the preliminary inquiry, will refer the matter to the entire Committee on Research and Service (CRS), chaired by the AAVP, along with the report from the preliminary inquiry. If a member of the CRS has served on the AHC, or if a CRS member is in conflict of interest, that member must recuse him/herself from the formal investigation. This investigation must begin within 30 days after the preliminary inquiry is completed. Additional non-voting consultants may advise the CRS to ensure the availability of expertise appropriate to the nature of the allegation. The AAVP must inform the members of the CRS, the non-voting consultants, witnesses, and University officials that the proceedings are strictly confidential and that except for necessary notifications required by law (such as, to withdraw publications or data, or to repair other damage to scholarship or the University's reputation), the findings of the investigation are confidential.
2. A thorough and appropriately detailed review of all research records and evidence shall be undertaken by the CRS by whatever means they consider fair and objective preferably retaining the services of persons from the AHC. The CRS will undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding or if new allegations arise. The CRS shall 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. The CRS shall 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.
3. The CRS may solicit the advice of appropriate intramural and external consultants. In devising its procedures, the CRS shall establish precaution against real or apparent conflicts of interest, and take reasonable efforts to insure due process to all individuals affected by the investigation. During the course of the investigation and at his/her own

expense, the Respondent may be advised, but not represented, by legal counsel. [Note: ORI indicates that Respondent's legal counsel can be in attendance at any meeting.]

4. Detailed, confidential written records shall be kept of all CRS proceedings. Tape recordings may be made of any hearings or interviews if the CRS considers it advisable to do so.
5. At the conclusion of their investigation (which should normally last no more than 120 days), the CRS shall prepare a draft final report. This report shall:
 - Describe the nature of the allegations of research misconduct;
 - Describe and document any external funding for the research;
 - Describe the specific allegations of research misconduct considered in the investigation;
 - Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody, but not reviewed. The report shall also describe any relevant records of evidence not taken into custody and explain why;
 - Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and, if misconduct was found:
 - Identify it as falsification, fabrication, or plagiarism and whether it was intentional, knowing, or in reckless disregard.
 - Summarize the facts and analysis supporting the conclusion and consider the merits of any reasonable explanation by the Respondent and any evidence that rebuts the Respondent's explanations.
 - Identify any external support.
 - Identify any publications that need correction or retraction.
 - Identify the person(s) responsible for the misconduct.
 - List any current support or know applications or proposals for support that the Respondent has pending with funding agencies.
6. The Respondent shall have an opportunity to provide written comments to the draft final report which the CRS shall consider and address before issuing the final report. Any comments to the CRS must be submitted within 30 days of the date on which the Respondent received the draft report.
7. The CRS shall submit the final report for transmittal to the Academic Vice President. This report shall describe the pertinent policies, procedures for obtaining information, the Respondent's views, persons interviewed, findings and sanctions. A copy of this report also is sent to the Respondent and the other University officials who were notified of earlier phases of the investigation.
8. The recommendations may include personnel actions against the individual(s) committing the misconduct in accordance with Section V of this policy. In addition, the CRS may recommend withdrawal of pending manuscripts emanating from fraudulent research; notification to editors of journals in which suspect reports have already appeared; communication with co-investigators or their employers concerning possible

collusion; and/or reports to extramural sponsors. Recommendations should be made on policy changes or other actions to ensure that similar misconduct does not occur in the future.

9. This report and all other records of the investigation shall be retained in confidence by the AAVP. If the project involved funding, a report shall also be submitted to the cognizant agency which may not be able to guarantee confidentiality if misconduct occurred.

D. Final Actions Based on the Report of a Committee Conducting a Definitive Investigation

1. If an allegation of scholarly misconduct is not substantiated after either the preliminary inquiry or the definitive formal investigation, all proceedings will be discontinued and the University will undertake all reasonable and practical efforts, if requested and appropriate, to protect and restore the reputations of the Respondent(s). If the allegation appears to be raised in bad faith (knowingly making a false accusation), the CRS must recommend disciplinary action against the Complainant.
2. If scholarly misconduct is determined to have occurred, sanctions and actions consistent with other University policies will be imposed by the Academic Vice President based upon recommendations of the CRS.
3. Regardless of the outcome of the report, the institution will take all reasonable and practical efforts to protect or restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against those persons.
4. All records of the research misconduct proceeding shall be maintained for seven years after completion of the proceeding.
5. In the case of federally funded research, the sponsor will be notified and appropriate restitution will be made if misconduct is determined to have occurred. The institution will cooperate fully with sponsors with any additional review, subsequent hearings or appeals. This includes providing all research records and evidence under the institution's control, custody, or in the possession of, or accessible to, all persons within its authority, as necessary. It should be noted that the funding agency may invoke the right to impose sanctions of its own on the individual researcher.

Approved June 2005 by the Academic Vice President.
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