Policy title	Category
Research Misconduct	Human Resources
Owner	**Approved by**
Human Resources	Administrative Council

Policy statement

Nebraska Wesleyan University (NWU) is committed to academic excellence and the development of values within its student body and the entire institutional community. This policy regarding research misconduct as described by 42 CFR Part 93 applies to all individuals at NWU engaged in research that is supported by, or for which support is requested from, any one of the organizational units of the United States Public Health Service (PHS, including the National Institutes of Health). This NWU policy limits research misconduct to actions occurring within six years of the date on which NWU or the U.S. Department of Health & Human Services (HHS) receives the allegation of misconduct, with certain exceptions as outlined in PHS regulation Section 93.105.

This NWU policy applies to any person paid by, under the control of, or affiliated with NWU, such as but not limited to officials, faculty, teaching and support staff, researchers, research coordinators, technicians, students, volunteers, agents and contractors, subcontractors, and subawardees and their employees.

Misconduct means falsification, fabrication, or plagiarism that significantly depart from the accepted practice of the relevant research community. Research misconduct must be committed intentionally, or knowingly, or recklessly. It does not include honest error or honest differences of opinion.

NWU has the burden of proving research misconduct by a preponderance of the evidence. In the case of a claim of honest error or honest difference of opinion, these elements are an affirmative defense that the subject of the allegation (hereinafter “the respondent”) has the burden of proving by a preponderance of the evidence.

While PHS recognizes that the primary responsibility for the prevention and detection of misconduct and for the conduct of inquiries and investigations rests with NWU, PHS retains the right to initiate their own investigations at any time pursuant to the procedures outlined in the referenced federal regulations.

The Provost of Nebraska Wesleyan University has responsibility for communicating NWU’s policy regarding research misconduct to those who are subject to it, and for interpreting NWU’s policy in carrying out compliance.

PROCEDURES

All institutional members (faculty, trainees, technicians and other staff members, students, fellows, guests, researchers, or collaborators at Nebraska Wesleyan University) will report observed, suspected, or apparent research misconduct to the Provost. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the Provost to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the Provost will refer the individual or allegation to other offices or officials with responsibility for resolving the problem. At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the Provost and will be counseled about appropriate procedures for reporting allegations.

The procedure to be followed has three stages: *Inquiry, Investigation, and Resolution.* Those responsible for conducting each phase (the Provost and the President) should be guided by the following principles:

- Nebraska Wesleyan University must vigorously pursue and resolve any charges of misconduct in research.
- Nebraska Wesleyan University must provide adequate safeguards for subjects of allegations as well as persons alleging misconduct (hereinafter referred to as “complainant”), bearing in mind the vulnerabilities of an individual position and the sensitive nature of academic reputations.
- Confidentiality must be maintained to the maximum practical extent.

- Conflict of interest, real and potential, must be minimized.
- All stages of the procedure must be fully documented.
- All parties are responsible for acting in such a way as to avoid unnecessary damage to the general enterprise of academic research.
- Nebraska Wesleyan University is required to inform appropriate funding agencies of its actions when the work is supported by extramural funding, in accordance with the regulations of the appropriate funding agency.
- If it is found that misleading data or information have been published, Nebraska Wesleyan University is responsible for setting the public record straight, for example, by informing the editors of scientific or scholarly journals.

All decisions made as a result of an allegation of misconduct will be made in accordance with this policy and the cited federal regulations.

Inquiry stage

The purpose of the inquiry stage is to determine, with minimum publicity and maximum confidentiality, whether an allegation or apparent instance of misconduct warrants a formal investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible, but to gather factual information.

Initiating the Inquiry

An institutional member may bring forward an allegation of misconduct in research to the Provost who will provide a confidential assessment. If, in the Provost's judgment, there is an indication that misconduct has occurred, the Provost must pursue an inquiry. Similarly, the Provost may initiate an inquiry without a specific complaint if evidence of misconduct comes to the Provost's attention. As with a formal allegation, the Provost must pursue an inquiry if he or she determines that there is an indication that misconduct has occurred.

Inquiry Procedure

The Provost is responsible for overseeing the inquiry, which will be conducted by an Inquiry/Investigative Committee consisting of the Provost, the chair of the appropriate department, and a total of two to four other members who have the appropriate background to judge the issues being raised. The Provost will appoint the committee members in consultation with the chair of the relevant department and the NWU Faculty President. Committee members may be from within or outside the NWU community and must have no real or apparent conflicts of interest bearing on the question.

The Provost will notify the respondent of the proposed committee membership within 10 calendar days of the committee's appointment. If the respondent submits a written objection to any appointed member of the committee based on bias or conflict of interest, doing so within five calendar days of the respondent's receipt of the committee list, the Provost will determine whether or not to replace the challenged member with a qualified substitute.

An inquiry formally begins when the Provost notifies the respondent in writing of the charges and the procedures to be followed during the inquiry stage. This notification and other documents throughout the process are to be retained for seven years after the completion of the NWU-initiated proceeding or the proceeding of a funding agency, whichever is later.

If an inquiry is initiated, the Provost should decide whether interim administrative action is required to protect the interests of research subjects, students, colleagues, PHS, or Nebraska Wesleyan University while the inquiry proceeds. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the Provost is responsible for taking all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding.

In beginning the inquiry stage, the Provost will prepare a written charge for the Inquiry/Investigation Committee which conveys the following:

- Sets forth the time for completion of the inquiry;
- Describes the allegations and any related issues identified during the allegation assessment;
- States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;
- States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and is within the jurisdictional criteria of 42 CFR § 93.102(b); and, (2) the allegation may have substance, based on the committee's review during the inquiry.
- Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and 42 CFR § 93.309(a).

The Provost will be present or available throughout the inquiry to advise the committee as needed.

Findings of the Inquiry

A written inquiry report will be prepared in draft form by the Inquiry/Investigative Committee describing whether a formal investigation is or is not warranted and whether any actions should be taken if an investigation is not recommended.

The Provost will provide the respondent with a copy of the draft inquiry report for comment and rebuttal. The Provost will provide the complainant, if he or she is identifiable, with portions of the draft inquiry report that address the complainant's role and opinions in the investigation. Within 14 calendar days of their receipt of the draft report, the complainant and respondent each will provide their comments, if any, to the committee. Any comments that the complainant or respondent submits on the draft report will become part of the final inquiry report and record. Based on the comments, the Inquiry/Investigation Committee may revise the report as appropriate before submitting the final report to the Provost. The Provost will forward the final report to the President with any comments the Provost wishes to make.

The Inquiry/Investigation Committee shall complete the inquiry and submit its draft and final reports in writing to the Provost no more than 60 calendar days following its first meeting, unless the President approves an extension for good cause. If there is an extension, the reason for it will be entered into the records of the case and the report. The respondent will also be notified of the extension.

If the President determines that the inquiry warrants an investigation, Nebraska Wesleyan University will inform PHS's Office of Research Integrity (ORI) within 30 days and submit the final inquiry report. Upon the request of ORI, NWU will provide to the ORI its Research Misconduct policy and other policies and procedures under which the inquiry was conducted, the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents, as well as the charges for the investigation to consider.

The Provost will notify the respondent and the complainant whether an investigation is warranted.

Investigation stage

If an inquiry results in a finding that an investigation is warranted, the Inquiry/Investigation Committee will remain intact and an investigation will be initiated within 30 calendar days. The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, to determine specifically whether misconduct has been committed, by whom, and to what extent, and to identify one or more sanctions. If an investigation is initiated, the Provost should decide whether interim administrative action is required to protect the interests of research subjects, students, colleagues, PHS, or Nebraska Wesleyan University while the investigation proceeds.

Upon reassembling the Inquiry/Investigation Committee, the Provost will provide a written charge which conveys the following:

- Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
- Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the research misconduct is a significant departure from accepted practices of the relevant research community; and (3) the respondent committed the research misconduct intentionally, knowingly, or recklessly;
- Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and 42 CFR § 93.313;
- Informs the committee that it must:
    - Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;
    - Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
    - 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 the investigation; and
    - Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

The Provost will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this statement of policy and procedures and 42 CFR Part 93. The Provost will be present or available throughout the investigation to advise the committee as needed.

Once the formal investigation begins, the committee should inform the respondent in writing of all allegations so that a response may be prepared. The complainant and the respondent should be fully informed of the procedure chosen by the committee for conducting the investigation.

A finding of misconduct must be by agreement of a majority of the Inquiry/Investigation Committee.

The investigation will ordinarily be completed within 120 days of its initiation. This includes conducting the investigation, preparing the report of findings, the imposition of any recommended sanctions, and submitting the report to any funding agency as may be required by regulation or statute. If this deadline cannot be met, the President may approve an extension for good cause. In the event of an extension, an interim report of the reasons for the delay and progress to date should be prepared and submitted to the PHS Office of Research Integrity for approval. This interim report becomes part of the record of the investigation and the final report. The respondent will be notified of the extension.

The Provost will provide the respondent with a copy of a draft investigation report for comment and rebuttal, and will provide the complainant, if he or she is identifiable, with portions of the draft investigation report that address the complainant's role and opinions in the investigation. Within 14 calendar days of their receipt of the draft report, the complainant and respondent will provide their comments, if any, to the committee. Any comments that the complainant or respondent submits on the draft report will become part of the final investigation report and record. Based on the comments, the Inquiry/Investigation Committee may revise the report as appropriate. The Provost will send the draft investigation report to NWU's legal counsel for review.

Resolution

The Provost shall receive the final investigation report from the Inquiry/Investigation Committee and submit it to the President.

No Finding of Misconduct

In the event of a finding of no misconduct by the Inquiry/Investigation Committee, the Provost shall decide what steps need to be taken to clear the record and to protect and restore the reputation of all parties involved.

If the allegations are found to have been maliciously motivated, the Provost may wish to recommend to the President appropriate disciplinary action. If the allegations are found to have been made in good faith, precautions should be taken to prevent retaliatory actions.

Finding of Misconduct

In the event of a finding of misconduct by the Inquiry/Investigation Committee, the Provost shall forward the committee report to the President with a recommendation of sanctions and other action to be taken. The President should review the full record of the inquiry and investigation, and make a final determination as to sanctions and any other appropriate actions.

Possible sanctions for faculty and staff include removal of the responsible person from the project, special mentoring of future work, or dismissal from employment by Nebraska Wesleyan University pursuant to the terms of the NWU Faculty Constitution, NWU Faculty Handbook, and NWU human resources policies. For students the sanctions recommended to the President might include suspension or termination of the privilege of being employed to do research, suspension or termination of the privilege of doing research as independent study for credit, failure in the research project for which the student is enrolled for credit, suspension from Nebraska Wesleyan University, or dismissal from Nebraska Wesleyan University pursuant to the terms of the NWU Student Handbook.

The President shall notify the PHS Office of Research Integrity promptly following the investigation and a final determination of no finding of misconduct or a finding of research misconduct, with determined sanctions. Upon request, Nebraska Wesleyan University will provide records and evidence relevant to the research misconduct allegation. A full record of the investigation should be retained by Nebraska Wesleyan University in a secure and confidential file (but not in the personnel file of the respondent) for at least seven years.

In addition to ORI notification, the President shall notify parties directly affected by the misconduct regarding the final disposition of the case and provide any required documentation. The list of those notified may include the complainant; co-authors, co-investigators, collaborators; and editors of journals that have published fabricated, falsified, or plagiarized results.

Appeal

A faculty member, staff member or student found to have committed misconduct in research and against whom sanctions are imposed by the President may file an appeal in accordance with the relevant provisions of the NWU Faculty Constitution, NWU Faculty Handbook, NWU Student Handbook, and NWU human resources policies. The appeal process should be completed within 120 days of filing of the appeal. The process for appeal outlined in the cited federal regulations, 42 CFR Part 93 and 45 CFR Part 689, will be available to a respondent.

Other Considerations

Regardless of whether NWU determines that misconduct has occurred, the Provost will undertake reasonable efforts to protect complainants who made allegations of misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations.

All meetings of the Inquiry/Investigative Committee at which witnesses are interviewed will be recorded. The Faculty Handbook, Student Handbook, and NWU human resources policies will govern all other procedural matters as they relate to the inquiry and/or investigation

of a faculty member, staff member, or student.

Other reporting requirements: In cases involving funds provided by PHS, or any organizational unit thereof, the Provost shall notify the Office of Research Integrity at any stage of the inquiry or investigation that any of the following conditions exist:

1) The health or safety of the public is at risk, including an immediate need to protect human or animal subjects;

2) There is an immediate need to protect HHS resources or interests;

3) Research activities should be suspended;

4) There is a reasonable indication of possible violation of civil or criminal law;

5) Federal action is required to protect the interests of those involved in the research

misconduct proceeding;

6) The research misconduct proceeding may be made public prematurely; or

7) The research community or public should be informed. Section 93.318.

Last revised date
April 22, 2015