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[Home](#)[Meet the Team](#)[Career Opportunities](#)[Employee Resources](#)[Manager Resources](#)[Policies](#)

## UMaine Policies

- [AIDS Policy](#)
- [Accommodating Individuals with Disabilities](#)
- [Affirmative Action](#)
- [Alleged Misconduct in Research and Other Scholarly Activities](#)
- [Alternatives to Teaching](#)
- [Background Check Policy](#)
- [Consenting Relationships](#)
- [Domestic Partner Policy](#)
- [Drug and Alcohol Policy](#)
- [Financial Conflict of Interest Procedures](#)
- [Free Speech and Assembly Policy \(UMaine\)](#)
- [Human Subjects of Research](#)
- [Inclement Weather](#)
- [Legal Services Guidelines](#)
- [Parking](#)
- [Partner/Spouse Accommodation Policy](#)
- [Pet Policy](#)
- [Policies and Procedures for the Humane Care and Use of Animals](#)
- [Policies and Procedures for Financial Disclosures and Conflicts of Interest in Extramurally Sponsored Activities](#)
- [Retention of Personnel Files](#)
- [Sexual Harassment Policy](#)
- [Surveillance Camera Policy](#)
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- [Volunteer Policy](#)
- [Weapons Policy](#)
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**POLICY AND PROCEDURES ON ALLEGED MISCONDUCT IN RESEARCH  
AND OTHER SCHOLARLY ACTIVITIES**

**UNIVERSITY OF MAINE**

**APPROVED: September 17, 1999**  
**Revised: April 14, 2006**

# **POLICY AND PROCEDURES ON ALLEGED MISCONDUCT IN RESEARCH AND OTHER SCHOLARLY ACTIVITIES**

## **UNIVERSITY OF MAINE**

### **I. Preamble**

#### **A. Statement of Policy**

The University of Maine is committed to fostering an environment in which the highest ethical standards in the conduct of research and other scholarly activities are expected. The primary responsibility for maintaining such standards of honesty in the pursuit and dissemination of knowledge rests with the faculty, collaborating staff members, and students. Any individual who is found guilty of willful "Misconduct" as defined below is subject to disciplinary action by the University of Maine. Every individual engaged in research and other scholarly activities is expected to be fully aware of the regulations and ethics guidelines governing his/her discipline. A faculty member or his/her collaborator(s) (including other faculty, staff, and students) should disclose immediately what they believe in good faith to be an instance of misconduct, as identified below.

Any allegation of "misconduct in research and other scholarly activities" (henceforth "Misconduct") that is made against a member of the faculty or staff or against his/her collaborator(s) requires a prompt, thorough and fair review. The University will take reasonable steps to ensure an impartial and unbiased review to the maximum extent practicable, including precautions to ensure that individuals responsible for carrying out any part of the research misconduct proceeding do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry or investigation. The following procedures are intended to assure these objectives. Within the University community, many unusual employment situations do not have the traditional line of command, i.e., staff-faculty-chairperson-dean-vice president. Consequently, the guidelines developed below will necessarily have to be modified under certain circumstances.

### **II. Definitions**

#### **A. Misconduct in Research and Other Scholarly Activities**

'Misconduct' or 'Misconduct in Research and Other Scholarly Activities' means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting research and

other scholarly activities. It does not include honest error or honest differences in interpretations or judgments of data.

B. Inquiry

An information-gathering and initial fact-finding process to separate allegations of misconduct deserving of further investigation from those which are frivolous, unsubstantiated or mistaken.

C. Investigation

A formal examination and evaluation of all relevant facts to determine if an instance of misconduct has taken place.

D. Complainant

An individual who comes forward with an allegation of misconduct.

E. Respondent

An individual against whom misconduct is alleged.

F. Federal agency

Federal agency shall include any federal agency with regulations pertaining to allegations that misconduct has occurred in research supported by federal funds. For example, the Office of Research Integrity (ORI), a component of the Public Health Service, monitors individual investigations into alleged or suspected scientific misconduct in research or research-training, applications for research or research training, or related research activities that are supported by funds received from the Public Health Service (PHS) of the United States Department of Health and Human Services. The National Science Foundation (NSF), under the supervision of the Division of Audit and Oversight (DAO) in the Office of Budget, Audit and Control, monitors investigations into allegations of scientific misconduct in research supported by an NSF award.

III. Appointments

A. Misconduct Policy Officer

1. The Vice President for Research, or other senior administrator if so designated by the President, shall serve as the Misconduct Policy Officer. The Vice President for Academic Affairs and Provost, or other senior administrator if so designated by the President, shall serve as alternate in instances of allegations that might pose a conflict of interest for the Misconduct Policy Officer.

2. Responsibilities

- a. To provide education and counseling to the University community on matters related to scientific misconduct.
- b. To disseminate and interpret the University's policies on scientific misconduct.
- c. To counsel confidentially any individual who comes forward with an allegation of misconduct.
- d. To seek to assist in the resolution of each such allegation through the institutional processes appropriate to the particular case.
- e. To work with the complainant in the development of a specific, formal, written complaint in the event that the allegation is to be handled through these procedures.
- f. To appoint all Inquiry Boards.
- g. To maintain all records of all complaints, inquiries, and investigations.
- h. To serve ex officio (without vote) on Inquiry Boards and Ad Hoc Review Panels.
- i. To communicate with Federal agency in accordance with federal law whenever allegations involve research supported by federal funds.
- j. To communicate with the Vice President for Academic Affairs and Provost at all stages of the process, including whenever the Officer reports to federal funding agencies.

B. Committee on Scientific Misconduct

1. The Faculty Senate will appoint a six member Committee on Scientific Misconduct. Membership will be limited to tenured faculty selected to represent a range of disciplines. Initially, two persons each will be appointed for terms of one, two, and three years. Subsequently, two members will be appointed annually for three-year terms.
2. Responsibilities
  - a. For any specific allegation or set of allegations, a three-member Inquiry Board of the Committee on Scientific Misconduct, appointed by the Misconduct Policy Officer, will conduct the inquiry in accordance with the procedures set forth below to determine if an investigation is warranted.
  - b. If an investigation is warranted, the Inquiry Board shall recommend that the Misconduct Policy Officer charge the appropriate Dean with appointing an Ad Hoc Review Panel to conduct a full investigation.

### C. Ad Hoc Review Panel

1. When the Inquiry Board recommends a formal investigation, the appropriate Dean will appoint a Review Panel of five academically qualified members from within the University. At least two shall be from disciplines closely related to that of the respondent. Under limited circumstances, scholars from other institutions who are recognized experts in the discipline of the respondent may be requested to serve as consultants or experts to the Panel. The respondent will have the opportunity to challenge the appointment of proposed panel members and to suggest substitutes to the Dean for good cause shown. Good cause may include, but not be limited to, circumstances in which the respondent believes the proposed member(s) to be unqualified to review the allegations due to bias or lack of relevant expertise in the field in question. Final decision on the composition of the Review Panel will be made by the Dean.
2. All faculty members of the Committee on Scientific Misconduct shall be excluded from serving on the Ad Hoc Review Panel in order to assure the independence of the inquiry and investigative phases of the process.

### IV. Description of Process

The entire process shall be governed by the guidelines set forth in Sections VI and VII of these procedures.

#### A. Complaint

Any person(s) who perceives that misconduct has occurred shall report the alleged misconduct to the Misconduct Policy Officer, who shall immediately discuss with the complainant the perceived misconduct and the procedures for inquiries and investigations.

To the extent allowed by law, the University shall maintain the identity of complainants securely and confidentially and shall not disclose any identifying information, except to: (1) those who need to know in order to carry out a thorough, competent, objective, and fair research misconduct proceeding; and (2) Federal agency (if applicable) as it conducts its review of the research misconduct proceeding and any subsequent proceedings. Anonymity of the complainant may be preserved if the Misconduct Policy Officer, after reviewing the allegation and available information, determines that it is necessary to protect the complainant and that the identity of the complainant is not necessary to the inquiry. In this event, the complainant would be the University. There may also be instances where the University is the complainant because the identity of the

complainant is unknown but the evidence of misconduct is substantial. The complainant or Misconduct Policy Officer on behalf of the University shall initiate the process by completing a statement of the allegation or other evidence of possible misconduct, and by signing and dating the complaint. The complaint shall contain the allegation of misconduct and the reasons and bases for suspecting misconduct by a member\* of the University, and shall be provided to the Misconduct Policy Officer in the event that the complaint is completed by the complainant.

\*In the event that a student is accused of misconduct as defined in this policy, the Misconduct Policy Officer shall provide a copy of the complaint to the Student Conduct Code Officer. The academic honesty procedures described in the student handbook shall apply.

#### B. Inquiry

Within ten (10) working days of the receipt of a complaint during the academic year, and as soon as practical during the summer period, the Misconduct Policy Officer shall select a three-member Inquiry Board from membership of the Committee on Scientific Misconduct, appoint a chairperson, and charge the Board with conducting an inquiry to assess the allegation to determine if: (1) it meets the definition of research misconduct as defined in this Policy; (2) it involves either federally supported research, applications for federal research support or research records; and (3) the allegation is sufficiently credible and specific, so that potential evidence of research misconduct may be identified. At this time, the Misconduct Policy Officer shall also notify the respondent, in writing, that a complaint of suspected misconduct has been made and that an Inquiry Board has been appointed. The Misconduct Policy Officer shall also provide the respondent with a copy of the complaint and provide him or her with the names of the members of the Inquiry Board. If the inquiry subsequently identifies additional respondents, they shall be promptly notified in writing. To the extent allowed by law, the University shall maintain the identity of respondents securely and confidentially and shall not disclose any identifying information, except to: (1) those who need to know in order to carry out a thorough, competent, objective, and fair research misconduct proceeding; and (2) Federal agency (if applicable) as it conducts its review of the research misconduct proceeding and any subsequent proceedings.

In the event that the allegations relate to Federally funded activities, the Misconduct Policy Officer shall take interim administrative actions, as

appropriate, to protect the Federal funds and insure that the purposes of the Federal financial assistance are carried out.

The Inquiry Board shall meet with the respondent and shall review necessary and reasonable information to determine if an investigation should be recommended. The Inquiry Board shall prepare a written report that includes the complaint and states what evidence was reviewed, summarizes relevant interviews, and states the conclusions of the inquiry.

The Inquiry Board shall take no more than thirty (30) days from establishment of the Board to conduct its inquiry and to complete its report. If the Board anticipates that the established deadline cannot be met, a report, citing the reasons for the delay and progress to date, shall be submitted to the Misconduct Policy Officer and to the respondent, and appropriately involved individuals should be so informed. If the inquiry takes longer than sixty (60) days to complete, the record of the inquiry shall include an explanation of the reasons for exceeding the 60-day period.

The Board shall recommend the initiation of an investigation if it establishes information which tends to support the allegation of misconduct, if the inquiry has raised questions about possible misconduct that can only be resolved by formal investigation, or if the respondent refuses to cooperate fully with the Board. If an allegation is found to be unsupported, but submitted in good faith, the Board shall recommend no further action.

At the conclusion of the inquiry, the Inquiry Board shall provide a draft copy of the written report to the Misconduct Policy Officer and to the respondent. The respondent may file a written response within ten days of receipt of the Inquiry Board's report. The Inquiry Board will consider any responses and address the comments before issuing the final report. The inquiry report shall contain the following information: (1) The name and position of the respondent(s); (2) A description of the allegations of research misconduct; (3) The federally funded support involved, including, for example, grant numbers, grant applications, contracts, and publications listing federal support; (4) The basis for recommending that the alleged actions warrant an investigation; and (5) Any comments on the report by the respondent or the complainant. The Misconduct Policy Officer will make a written determination of whether an investigation is warranted. The Misconduct Policy Officer shall notify the respondent(s) of the results of the inquiry and attach to the notification copies of the final inquiry report and these institutional policies and procedures for the handling of research misconduct allegations. The Misconduct Policy Officer shall inform the respondent whether or not there will be further investigation; if there is a complainant, he or she shall likewise be informed.

In the event that the allegations relate to Federally funded research and if the Board determines that an investigation is warranted, the Misconduct Policy Officer shall notify Federal agency prior to commencement of the investigation. The Misconduct Policy Officer also shall notify Federal agency at any time if the following conditions exist:

1. There is an immediate health hazard involved;
2. There is an immediate need to protect federal funds or equipment;
3. There is an immediate need to protect the interests of the person(s) making the allegations or the respondents(s);
4. It is probable that the allegation(s) are going to be reported publicly; or
5. There is a reasonable indication of possible criminal violation. In this instance the Misconduct Policy Officer shall notify Federal agency within 24 hours of obtaining the information. The Misconduct Policy Officer also shall notify Federal agency of any developments that may affect current or potential federal funding for the respondent or that Federal agency needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

In the event that the inquiry concludes that an investigation is not warranted, the Misconduct Policy Officer shall maintain a sufficiently detailed documentation of the inquiry to permit a later assessment of the reasons for determining that an investigation was not warranted. Such records shall be maintained in a secure manner for a period of at least seven years after the termination of the inquiry, and shall, upon request, be provided to authorized personnel of relevant Federal agency.

In all cases, the Misconduct Policy Officer is responsible for investigating and recommending appropriate action for any additional outcomes of the inquiry. If the Board finds that allegations have not been made in good faith, the Misconduct Policy Officer shall initiate or recommend disciplinary action against the complainant in accordance with appropriate University policies. If the confidentiality of the proceedings is breached, the Misconduct Policy Officer shall initiate or recommend disciplinary action against the breaching individual in accordance with appropriate University policies. If the confidentiality of the proceedings is breached, the Misconduct Policy Officer shall initiate or recommend actions to minimize the damage. If the complainant suffers acts of retaliation, the Misconduct Policy Officer shall initiate or recommend disciplinary action against the individual or individuals engaging in such acts, in accordance with appropriate University policies.

### C. Formal Investigation

If the Misconduct Policy Officer rules that a formal investigation be conducted, the appropriate Dean shall explicitly charge the Review Panel and provide it with all material already at hand. The Review Panel shall commence the investigation within 30 days of completion of the inquiry.

The Review Panel shall: (1) 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 the allegations; (2) 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; (3) 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; and (4) Otherwise comply with the requirements for conducting an investigation in this Policy.

The respondent shall be given a copy of the charge to the Review Panel, including the allegations to be investigated, and invited to provide written comments, which comments shall be among the materials considered by the Review Panel and included in its report. In addition, the respondent shall be obliged to provide the Review Panel with other requested material relevant to the alleged infraction. For scientific misconduct, this might include:

1. A list of all persons connected with the work.
2. Copies of relevant grant applications and work progress reports.
3. All requested relevant research notebooks, journals, and other records.
4. Copies of relevant abstracts and papers, published or pending.
5. Copies of all correspondence and memoranda of telephone calls.

The Review Panel is authorized to conduct a hearing and to interview anyone who could contribute relevant information. The respondent shall cooperate with the Review Panel. The Review Panel 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. If the misconduct is substantiated, the investigation shall determine the seriousness of the offense and the extent of any adverse effects resulting from the misconduct.

The Review Panel should complete its formal investigation and send its draft written report to the Dean in no more than twenty (20) working days during the academic year (or as soon as is practical during the summer recess). At the same time, a copy of the report shall be sent to the respondent, along with a copy of (or supervised access to) the evidence on which the report is based and his/her written comments invited, such comments to be sent to the Dean within thirty (30) working days. Comments will be considered by the Dean and by the Misconduct Policy Officer in their subsequent deliberations, and be made part of the record of the investigation.

Upon a 3/5ths vote of the Review Panel and prior to completion of the report, the Panel may widen the investigation to include other projects with which the respondent is or has been involved where the investigation thus far (1) suggests a substantive link between the project under investigation; (2) establishes that the same research team was or may have been involved in other projects; (3) indicates a pattern or practice of misconduct; or (4) reveals other appropriate circumstances under which review should be expanded. The Panel shall communicate, in writing, this increased effort to the Misconduct Policy Officer and the respondent.

The expanded investigation must be completed within 60 calendar days from the commencement of the initial investigation.

If the Panel anticipates that the investigation cannot be completed within the deadline, the Panel shall advise the Misconduct Policy Officer and the respondent. In the case of federally funded research, if the Panel determines that it will not complete the investigation in 120 days, the Misconduct Policy Officer shall request an extension from Federal agency in accordance with federal law.

The Panel's final report shall: (1) Describe the nature of the allegations of research misconduct; (2) Describe and document the federal support, including, for example any grant numbers, grant applications, contracts, and publications listing federal support; (3) Describe the specific allegations of research misconduct considered in the investigation; (4) Include the institutional policies and procedures under which the investigation was conducted; (5) Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody, but not reviewed; (6) Describe any relevant records and evidence NOT taken into custody and explain why; (7) 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, (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 support; (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 non-federal agencies; (7) Include and consider any comments made by the respondent and complainant on the draft investigation report; and (8) the sanctions recommended, if any. A 3/5ths vote of the Panel finding that the allegation(s) is substantiated is necessary for imposition of any sanctions.

Within ten (10) working days from receipt of the Panel's report, the Dean shall forward the report and the respondent's comments, if any, to the Misconduct Policy Officer who shall notify other appropriate persons as to the findings of the Review Panel. If the allegations are substantiated, the Dean shall recommend to the Misconduct Policy Officer an appropriate course of action. The Misconduct Policy Officer shall determine the final outcome, including the imposition of any sanctions, and shall notify the respondent. The respondent shall have ten (10) working days in which to submit an appeal: see Section V.

If the allegations of misconduct are substantiated, the respondent will be subjected to disciplinary action, which may include, but is not limited to, termination, and the respondent may also be expected personally to make restitution as appropriate under the circumstances of the case.

If the allegations of misconduct are not substantiated, the Misconduct Policy Officer shall undertake diligent efforts, as appropriate, to restore the reputation of the respondent.

If the respondent is being supported by extramural sponsored funds, the Misconduct Policy Officer shall consult with the Vice President for Academic Affairs and Provost and may at his/her discretion notify the sponsor and apprise the sponsor of the progress of the investigation. A copy of any such notification shall be sent to the respondent. In the case of federally funded research, the Misconduct Policy Officer shall notify Federal agency of the final outcome of the investigation and, as required by Federal regulation, provide Federal agency with a copy of the complete Investigation report. In the event that the inquiry or investigation is terminated before completion, the Misconduct Policy Officer shall notify Federal agency in accordance with federal law.

The Misconduct Policy Officer shall notify the editor(s) of journals that are considering or have published abstracts and papers emanating from research determined to be the product of substantiated misconduct.

Institutions and sponsoring agencies with which the respondent has been affiliated should be notified by the Misconduct Policy Officer if there is a reason to question the validity of previous research or scholarship.

The Misconduct Policy Officer shall prepare and maintain the documentation to substantiate the investigation's findings. This documentation is to be made available to authorized personnel of the relevant Federal agency upon request.

No matter the outcome of the investigation, the Misconduct Policy Officer shall undertake diligent efforts to protect the positions and reputations of persons who have made allegations of scientific misconduct in good faith.

#### V. Appeals

The respondent may file an appeal in writing with the Misconduct Policy Officer. The appeal must be based solely upon issues of procedural error or new evidence which could not be made available to the Review Panel. This appeal shall be filed with the Misconduct Policy Officer within ten (10) working days of the date of notification of the determination of the Misconduct Policy Officer. The decision on appeal of the Misconduct Policy Officer shall be final. If an appeal is upheld, the process of inquiry/investigation starts anew at the point where there were procedural errors or where the introduction of new information is relevant.

#### VI. Guidelines for the Conduct of an Inquiry and an Investigation

The procedures for dealing with allegations of misconduct are guided by the following principles:

- A. To protect, to the maximum extent possible, the privacy of those who in good faith report apparent misconduct.
- B. To afford the respondent confidential treatment to the maximum extent possible, a prompt and thorough investigation, and an opportunity to comment on allegations and findings of the inquiry and/or the investigation.
- C. To take precautions against real or apparent conflicts of interest on the part of those involved in the inquiry or investigation.
- D. To minimize the number of individuals involved, consistent with securing necessary and appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence in any inquiry or investigation.

All University persons called upon to administer this policy shall exercise diligence to protect the privacy of the individuals involved. Confidentiality shall therefore be maintained except as necessary to consult with persons as required by

this policy and except insofar as disclosure is required by law. All notebooks, journals, and other materials submitted to the Panel will be held in trust by the Misconduct Policy Officer.

All reasonable, practical, and appropriate efforts to protect and restore the reputation of any person alleged to have engaged in research misconduct, but against whom no finding of research misconduct was made, if that person or his/her legal counsel or other authorized representative requests that the University does so.

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 complainants, witnesses, and committee members shall be undertaken by the University.

Collaborators named in allegations, against whom no charges are directed and no action initiated under this policy, are presumed to be innocent of misconduct except where allegations are lodged against them as individuals and reviewed under the procedures of this policy.

After an investigation, faculty practices and institutional policies and procedures for promoting the ethical conduct of research and investigating allegations of misconduct should be reviewed by the Committee on Scientific Misconduct in light of the experience gained, and recommendations for improvement should be forwarded to the President via the Misconduct Policy Officer after consideration by the Faculty Senate, Deans, and Vice Presidents.

## VII. Guidelines for the Confidentiality of Records

All records, documents, and the like submitted, generated, or otherwise developed in connection with proceedings under the policy shall be maintained confidentially and with the strictest regard for the privacy of all participants. All such records shall be maintained for a period of at least seven years after the process is completed under this policy.

All records, documents, and the like relative to proceedings that terminate with a finding of no misconduct shall be maintained confidentially in the Office of the Misconduct Policy Officer. Such records shall be sealed, and filed under the name of the individual against whom allegations were made in a repository created to maintain such records. Under no circumstances should such records be referenced or included in the personnel file of the individual against whom allegations were made. The same procedure shall apply relative to proceedings that terminate before the completion of the formal investigation.

All records relative to proceedings that terminate with a finding of misconduct shall be maintained unsealed in the Office of the Misconduct Policy Officer. Access to these files shall be limited to persons to whom access must be granted

to insure compliance with the dictates of the law and this policy. All access and disclosure requests, and the responses thereto, shall be documented and maintained as part of the file.

All persons called upon to administer this policy shall exercise diligence to assure compliance with these confidentiality requirements. No disclosure of, or access to, such records shall be permitted, except as required by law or as essential to effect this policy.