



Research Misconduct Policy

Scope: This policy applies to all persons involved in any stage of planning, execution, or reporting of research at Marian University.

Policy Statement:

Research and original scholarship conducted at Marian University (herein the "University") is expected to be planned, executed, reviewed, and reported without fabrication, falsification, plagiarism, or deliberate interference. All individuals who, in good faith, believe such misconduct has occurred should report this alleged misconduct without fear of reprisal (refer to "Whistleblower Policy of Marian University, Inc."). This policy and associated procedures require that the burden of proof rest on the University throughout the course of all inquiries and/or investigations. Per 42 CFR § 93.108, all stages of inquiries and investigations (e.g., respondent and complainant identity, research subject identity, inquiry and investigation reports) must be held in strictest confidence and only those who need to know or allowed by law should have access to information associated with these proceedings. Improper disclosure to parties not directly involved is a serious breach of conduct and may be punishable by law or University policy. Only the President is authorized to inform additional parties as is deemed appropriate. This policy will be applied to all allegations of research misconduct in a timely manner and without conflict of interest or the appearance of such.

Reason for Policy:

Marian University is committed to honest inquiry in the conduct of research and scholarly activity. In the event research misconduct is alleged, this policy will ensure that great care is exercised to protect the rights of all parties involved and maintain reasonable confidentiality of the process.

Procedure:

Formation of Review Committee

A person designated as Research Integrity Officer (RIO) will be appointed by the Assistant Provost for Research & Scholarship from among the pool of current qualified faculty or staff. The Assistant Provost for Research & Scholarship shall also appoint additional tenured or non-tenured faculty to serve as standing members of the Research Misconduct Inquiry Committee (IC). The IC will be derived from various colleges and will include individuals with various educational backgrounds and University ranks.

The IC consists of the RIO, any standing members, and a minimum of two ad hoc members appointed by the RIO for investigation of a specific case. The RIO shall serve a 3-year term and the standing members will be appointed for 3-year terms (initial terms to be 2 years or 3 years to permit staggering in the interest of continuity). The appointed standing members may be reappointed for a maximum of one additional term. Only one ad hoc member may be from the respondent's College and/or department/discipline.

After an allegation has been made, a two-step process will begin as follows:

1. Inquiry Phase – Information gathering and preliminary fact finding to determine if the allegation warrants investigation.
2. Investigation Phase - A formal examination and evaluation to determine if misconduct has taken place. If misconduct is confirmed, the extent or consequences of the misconduct will be determined, and appropriate action taken.

If the Assistant Provost for Research & Scholarship is named as a respondent or has unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses, the Provost will stand-in for this person for all aspects of the Inquiry and Investigation Phases.

Inquiry Phase

Reports of alleged misconduct will be brought directly to the RIO who will bring the written charge to the standing IC. To ensure a thorough, competent, objective, and fair response, if the RIO and/or any member(s) of the IC are named as respondent(s) or have unresolved personal, professional, or financial conflicts of interests with the complainant, respondent, or witnesses, the member(s) will be removed, and additional ad hoc member(s) with appropriate scientific expertise will be designated by the Assistant Provost for Research & Scholarship.

The following steps, which constitute a full and complete inquiry, will be taken no later than 45 calendar days after the allegation was originally brought to the RIO:

1. The RIO will report the allegations to the Assistant Provost for Research & Scholarship.
2. The respondent(s) will be informed in writing of the following:
 - a. The nature of the allegations made, right to counsel, and the names of the ad hoc IC members.
 - b. The respondent(s) has the right to two peremptory challenges to the ad hoc IC appointments made by the RIO. These challenges or a waiver must be submitted to the RIO before the preliminary inquiry begins.
3. The IC shall conduct a preliminary inquiry of the allegations to determine if enough evidence exists to warrant a formal investigation. The IC shall deliver a written report to the Assistant Provost for Research & Scholarship, complainant(s), and respondent(s). The IC, in consultation with the Assistant Provost for Research & Scholarship, will determine into which of the following categories the matter falls:
 - a. **Unfounded Allegation** - Charges are found by the IC to be frivolous, mischievous, or malicious. A report will be submitted to the Assistant Provost for Research & Scholarship for disciplinary review and application of appropriate University policy. Nothing will be placed in the personnel file of the respondent(s). All written records will be sealed and deposited in the Office of Sponsored Programs and Research (OSPR), where they will be maintained according to 43 CFR § 93.317(a). Both the complainant(s) and the respondent(s) will be notified in writing of this decision. Diligent efforts will be undertaken, as appropriate, to restore the reputation(s) of the respondent(s) when allegations are determined to be unfounded.
 - b. **Uninformed Allegation** - Per the Federal Research Misconduct Policy, "Research misconduct does not include honest error or differences of opinion." If a good faith allegation is deemed by the IC to be the result of honest error (by either party) or a difference in opinion, appropriate training resources will be provided to

the complainant(s) and/or respondent(s). Nothing will be placed in the personnel or student file of the respondent(s). All written records will be sealed and deposited in the OSPR where they will be maintained according to 43 CFR § 93.317(a). Both the complainant(s) and the respondent(s) will be notified in writing of this decision. Diligent efforts will be undertaken, if requested and as appropriate, to restore the reputation of the respondent(s), complainant(s), witness(es), and committee members when allegations are not confirmed and to protect the positions and reputations of those persons who, in good faith, made the allegations.

- c. Legitimate Allegation – Sufficient evidence exists to warrant a formal investigation. The matter will now proceed to the “Investigation Phase” and the following actions will be taken:
 - i. Before the respondent is notified, any relevant evidence such as laboratories, offices, and materials will be secured as necessary according to 42 CFR §93.305.
 - ii. Pursuant to 43 CFR §93.304(h), the IC, in cooperation with the Assistant Provost for Research & Scholarship will determine and take appropriate interim actions to protect public health, Federal funds and equipment, and the integrity of the PHS-supported research process.
 - iii. Pursuant to 43 CFR §93.318, the RIO will provide the Office of Research Integrity with notice of any facts that may be relevant to the protection of public health, Federal funds and equipment, and the integrity of the PHS-supported research process.
 - iv. The IC will notify the respondent of the findings by providing a copy of the “Inquiry Phase” report that highlighting the charges and the associated University policies and procedure associated with the allegation(s) a reasonable amount of time before the formal investigation begins. The respondent will be given the opportunity to provide written comments on the “Inquiry Phase” report before the formal investigation begins. Per 42 CFR §93.307(e), §93.309(a), the “Inquiry Phase” report will contain the following elements:
 - 1. Name and Position of the Respondent(s);
 - 2. Description of the allegations of research misconduct;
 - 3. Information regarding PHS support (e.g., grant numbers, grant applications, contracts, and publications listing PHS support);
 - 4. Basis for recommending that the alleged actions warrant a formal investigation; and
 - 5. Comments on the “Inquiry Phase” report by the respondent or complainant.
 - v. In the event of new allegations which were not addressed during the Inquiry Phase or provided in the initial notice of investigation, written notice will be provided to the respondent within a reasonable amount of time upon deciding to pursue said allegations.
 - vi. Per 42 CFR §93.309, the RIO will notify the Office of Research Integrity of the decision to pursue a formal investigation and provide a written copy of the findings along with a copy of the “Inquiry Phase” report within 30 calendar days of its completion.

Investigation Phase

If the IC determines a charge to be a "Legitimate Allegation", an Investigation Phase will be initiated no later than 30 calendar days after the completion of the Inquiry Phase, as follows:

1. Appropriate University administrators will be notified that an investigation is underway and a Presidential Investigation Committee (PIC) appointed. The composition of the PIC will be appointed by the Assistant Provost for Research & Scholarship as follows:
 - a. PIC Chairperson - The Chairperson will be chosen from the senior tenured faculty of the University.
 - b. Internal PIC Member – The Internal PIC Member will be named from the charged individual's primary discipline.
 - c. External PIC Member - The External PIC Member will be chosen from outside the institution and have appropriate academic credentials.

Note: No current IC member may serve on the ad hoc PIC. The RIO shall serve as consultant to the PIC.

2. The respondent(s) will be informed in writing of all charges, the composition of the PIC, the respondent's right to two peremptory challenges to PIC appointments and be invited to provide the PIC with pertinent information. Peremptory challenges must be submitted to the Office of the President before the PIC investigation begins.
3. Other individuals relevant to the investigation will be notified of the charges and asked to cooperate with the investigation.
4. The RIO shall liaise with all relevant outside agencies or review boards at other Universities regarding the incipient investigation and ensure that appropriate reporting is completed.

The PIC shall complete a thorough investigation of the charges. Once an investigation has begun, it must continue until a determination has been made regarding the alleged misconduct, even if respondent(s) is no longer employed by the University. After the "Investigation Phase" is complete, the following will take place:

1. Respondent(s) will be afforded the opportunity to provide written comments on the draft of the PIC report and discuss the draft PIC report with the PIC, with or without counsel, and the result of such discussions will be included in the PIC report.
2. The PIC will consider and address comments provided by the respondent(s) prior to issuing a final PIC report.
3. PIC shall deliver its written report, which constitutes a full and complete investigation, to the University President, Provost Assistant Provost for Research & Scholarship, Office of Research Integrity, and respondent(s) no later than 120 calendar days from the beginning of the "Investigation Phase". Pursuant to 42 CFR § 93.313, the final PIC report will include the following:
 - a. Description of the nature of the alleged research misconduct.
 - b. Information regarding PHS support (e.g., grant numbers, grant applications, contracts, and publications listing PHS support);
 - c. Description of specific allegations of research misconduct for consideration in the investigation.
 - d. A copy of the institutional policies and procedures under which the investigation was conducted.
 - e. Identification and summary of research records and evidence taken into custody for the investigation, including those not reviewed by the PIC.
 - f. Findings as to whether research misconduct did or did not occur for each separate allegation. If research misconduct is found:

- i. Identify if the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
 - ii. Summary of the facts and analysis used to support the findings and consideration of the merits of any reasonable explanation by the respondent;
 - iii. Identify the specific PHS support involved;
 - iv. Identify if any publications 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 has pending with non-PHS Federal agencies.
- g. Inclusion and consideration of any comments made by the respondent and complainant on the draft investigation report.
- h. Maintain and provide the Office of Research Integrity, upon request, all relevant research record and records of the institution's research misconduct proceedings, including results of all interviews and the transcripts or recordings of such interviews.
- 4. Marian University will maintain full and continual support with the Office of Research Integrity during its oversight review (Subpart D of 42 CFR Part 93) or any subsequent administrative hearings or appeals (Subpart E of CFR Part 93), including full compliance with 43 CFR §93.304(m).
- 5. Marian University will provide the Office of Research Integrity with the following documentation:
 - a. PIC Report including all attachments and any appeals.
 - b. Statement of final institutional action which will include whether research misconduct was found, and if so, who committed the misconduct.
 - c. Statement of whether the University accepts the investigation's findings.
 - d. Description of any pending or complete administrative actions against the respondent(s).

Institutional Decision

The matter will be considered closed if the Committee concludes no misconduct has occurred and nothing will be placed in the personnel or student file of the respondent(s). The University shall consider whether a public announcement would be harmful or beneficial in restoring any reputations that may have been affected. That decision should rest with the exonerated individual(s).

If charges of research misconduct are found to be supported by a preponderance of evidence and that the misconduct was knowingly, intentionally, or recklessly committed, the University shall take appropriate disciplinary action. These disciplinary actions may include, but not limited to, a letter of reprimand in the personnel file, loss of opportunity to conduct university supported research and scholarly inquiry for a specified time, suspension, or dismissal. The University shall be diligent in attempting to clarify the public record by such as actions including, but not limited to, public announcements, published retractions, withdrawal requests, or disassociation from published papers or abstracts. Affected funding agencies will be fully informed of the disposition of the case. Editors of journals in which papers or abstracts are pending or published will be notified by the President with information supplied by the faculty member in charge of the research and the chair of the PIC.

Pursuant to 43 CFR § 93.317(a), written records will be sealed and deposited in the OSPR where they will be maintained for 7 years after the completion of the University proceedings or

completions of any PHS proceedings involving the research misconduct allegation, whichever is later.

Faculty members who believe they have been treated unfairly may follow grievance procedures described in the faculty documents.

Definitions:

Per the definitions set forth by the Office of Research Integrity of the U.S. Department of Health & Human Services ([link](#)):

1. Fabrication – Making up data or results and recording or reporting them.
2. Falsification – 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 – Appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Per the definition set forth by the Office of the Vice President for Research of Massachusetts Institute of Technology ([link](#)):

4. Deliberate interference – Intentionally causing material harm to the research or scholarly work of others, and may include damaging or destroying the property of others, such as research equipment or supplies; disrupting active experiments; or altering or deleting products of research, including data.

Revision History:

1. May 27th, 2022

Assistant Provost for Research & Scholarship:

Signed:

Jonathan Rowley

Date: 5/28/2022

Provost:

Signed:

Alan J. Silver

Date:

5/31/2022