

304 Misconduct in Research Policy

PURPOSE

In order to fulfill its obligations and ensure the public's trust, Colorado Mesa University (CMU), as a state institution of higher education, is committed to maintaining the integrity of all research, scholarship, and creative activities. To this end, CMU will take action to prevent research misconduct and, in cases where misconduct is alleged, will actively investigate the allegations. The following policy complies with current federal regulations regarding scientific research misconduct, for example those promulgated by the National Science Foundation (NSF) and the Public Health Service (PHS).

All individuals are primarily responsible for preserving the integrity of truthful research in their scholarly activities. However, this policy outlines CMU's responsibility, as an institution to:

1. Promote exemplary ethical standards for research and scholarship;
2. Initiate an inquiry into any suspected or alleged misconduct;
3. Conduct a subsequent investigation, if warranted; and
4. Take action necessary to ensure the integrity of all research, the rights and interests of research subjects and the public, and the observance of legal requirements or responsibilities.

DEFINITIONS

The following definitions apply to this policy:

Research Misconduct means fabrication, falsification, or plagiarism in proposing or performing research, abuse of confidentiality or other practices that seriously deviate from those commonly accepted within the academic community for proposing, conducting, and reporting on research, and plagiarism or abuse of confidentiality in reviewing proposals for a funding agency.

The definition of research misconduct does not include honest error or differences of opinion or interpretations or judgments of data. The definition contained in this policy is not intended to override or contradict provisions of other regulations or policies, in particular those policies governing human research subjects and animal welfare. A finding of substantive violation of specific policies in these areas will also be considered misconduct under this policy.

Fabrication means making up data or results and recording or reporting them.

Falsification means 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.

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

Abuse of Confidentiality means using the ideas and preliminary data gained from access to privileged information through the opportunity for editorial review of manuscripts submitted to journals, and the opportunity for peer review of proposals being considered for funding by agency panels or by internal committees, the Institutional Animal Care and Use Committee, and the Human Subjects Committee.

Research means explorations that lead to the discovery and dissemination of new knowledge, the development of new applications of existing knowledge, the development of new paradigms for teaching and learning, and/or the related creative activities in the fine arts. Research for

the purposes of this policy includes all proposals submitted for funding and the results from such proposals.

Research Record means any data, document, computer file, computer diskette or tape, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of misconduct. A research record includes, but is not limited to, grant or contract application, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray file; slides; biological materials; computer programs, files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

Allegation is an assertion needing to be proved.

Complainant is a person who makes an allegation of research misconduct.

Deciding Official (DO) is the institutional official who makes the final determinations on allegations of research misconduct and any responsive institutional actions. The deciding official for CMU is the Vice President for Academic Affairs.

Inquiry is the gathering of information and initial facts to determine whether an allegation or apparent instance of research misconduct warrants an investigation.

Investigation is the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and, if so, to determine the responsible person.

Research Integrity Officer (RIO) is the institutional official responsible for assessing allegations of research misconduct and determining when such allegations warrant inquiries and for overseeing inquiries and investigations. At CMU, the research integrity officer is the Director of Sponsored Programs.

Respondent is the person against whom an allegation of research misconduct is directed or the person whose actions are the subject of an inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

Retaliation means any action taken by the university or an employee of the university that adversely affects the employment or other institutional status of an individual because the individual has in good faith made an allegation of scientific misconduct or of inadequate university response thereto or has cooperated in good faith with an inquiry or investigation of such allegation.

APPLICABILITY

This policy applies to all CMU campuses. This policy applies to the conduct of research and/or related activities, whether the research is funded or not; regardless of the field of study; presentation and/or publication of results; process of applying for funds; expenditure of project funds; and fiscal reporting on the use of project funds.

This policy applies to all faculty, students, administrators, and staff on all of CMU campuses. Faculty shall include all members of the general, part-time, adjunct, and visiting faculty, including administrators in these ranks. Staff shall include classified and unclassified employees of CMU, as well as temporary and part-time employees. This policy also applies to any person affiliated with or under the control of CMU such as guest researchers or collaborators on any CMU campus.

Faculty are responsible for emphasizing the importance of ethical research conduct to staff and students who are under their supervision and for providing reasonable supervision to minimize the

opportunities for research misconduct. Faculty are also responsible for establishing policies regarding author names on publications in accordance with the norms of their discipline, making those policies well known to students and staff, and conforming to those policies in their own publications.

Cases of research misconduct involving students are subject to the normal disciplinary rules governing students, but may be reviewed, as appropriate, under this policy.

RESPONSIBILITY TO REPORT MISCONDUCT

Any student, faculty, staff or other person may make a complaint of misconduct.

All employees or individuals associated with CMU should report observed, suspected, or apparent research misconduct to the RIO, Assistant Vice President for Academic Affairs (AVPAA), or Vice President for Academic Affairs. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he/she may contact the RIO to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

PROCEDURES FOR REVIEWING RESEARCH MISCONDUCT

Complaint

1. Reports of alleged misconduct may be made in writing directly to the RIO or AVPAA who will inform the DO and the RIO (if she/he is not notified) of the substance of the allegations. These reports should include specific evidence of the alleged misconduct.
2. The DO will inform the respondent of the complaint.
3. A preliminary and informal evaluation of the complaint will be made by the AVPAA (or the RIO if the AVPAA is the respondent), who may form a committee or consult in confidence with others, as appropriate, before passing on the matter. This evaluation should be completed within ten (10) working days after the AVPAA (or RIO) is notified of the complaint.
4. If the AVPAA (or the RIO) finds there are no reasonable grounds for the allegation, and the RIO and the DO concurs, the complaint will be dismissed. A written report stating the reasons for the dismissal shall be maintained, but will not be made a part of the record of the respondent. The complainant, who shall be notified of the dismissal by the RIO, may appeal a decision for the dismissal directly to the DO.
5. If, after evaluation, the AVPAA believes a complaint warrants further review, the AVPPA should refer the case directly to the RIO who will request that the DO sequester all relevant information. The respondent will then be notified and shall be given a copy of the procedures for review of research misconduct. The department head/ director will also be notified.

Inquiry

1. The purpose of an inquiry is to determine whether an allegation or apparent instance of misconduct warrants a full investigation or requires that special action be taken pending resolution of the allegation or apparent misconduct. The inquiry will determine whether the allegation of misconduct appears to be well founded, the seriousness of the alleged misconduct, the scope of the alleged incident, and the relevance of any other information that is available. An

inquiry should be completed within sixty (60) working days after a written allegation is made. In some complex cases, this deadline may be extended by agreement of all parties.

2. To the extent possible, inquiries (and resultant investigations) will be conducted in a confidential manner so as to protect the affected parties. Although a person participating directly in the conduct of an inquiry or investigation must be qualified to evaluate the situation, no such person may have a personal interest in the matter or its outcome.
3. The inquiry will be conducted by an ad hoc committee of at least three (3) tenured faculty members holding the rank of full professor chosen by the AVPAA (unless the AVPAA is the respondent) in consultation with the RIO. If the inquiry is interdisciplinary the RIO will appoint an ad hoc committee of at least three (3) tenured faculty members holding the rank of full professor from the university at large, and the same procedures for inquiry will be followed.
4. The inquiry committee will review the merits of the allegation(s) and recommend a course of action to the RIO, including whether a full investigation should be conducted. The inquiry committee may have access to documents, key witnesses and other evidence relating to the alleged misconduct and may interview the complainant and the respondent. It shall not, however, attempt to reach a decision on the merits of the complaint.
5. The inquiry committee must prepare a written inquiry report. It must include: the name and title of the committee members; the allegation(s); the research support involved (if any); a list of the research records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted or not; and the committee's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended.
6. After receiving the written report of the inquiry committee, the RIO will determine whether to dismiss the case or to proceed with an investigation. The respondent, complainant, AVPAA and departmental head/ director will be notified in writing of the RIO's decision.
If a decision to investigate is rendered, the procedure for investigation in this policy will be implemented.
7. If a decision not to investigate is rendered, all the information assembled in the course of the inquiry will be maintained in confidence to permit a later assessment of the reason for determining that an investigation was not warranted.
8. If the complainant disagrees with a decision of the RIO to dismiss the case, the complainant may appeal to the DO in writing within ten (10) days of being notified of the RIO's decision. The DO then will review the case and make a final determination as to appropriate action.

Investigation

1. The purpose of an investigation is to examine thoroughly an allegation of research misconduct, to examine the evidence in depth, and to determine whether such misconduct has taken place, by whom, and to what extent.
2. If the RIO determines to proceed with an investigation, she/he will appoint a committee of at least three (3) tenured faculty members holding the rank of full professor to investigate the complaint. When appropriate, the RIO may appoint experts from outside the university to serve on the committee. The RIO will notify the respondent of the proposed committee membership within seven (7) working days of notifying the respondent, complainant, AVPAA and department head/ director that an investigation will be conducted. If the respondent submits a written objection to an appointed member of the committee based on bias or conflict of interest, the RIO will immediately determine whether to replace the challenged member with a qualified substitute. The written objection must be submitted by the respondent within three (3) working days of receipt of the notification of the committee's composition. Granting agencies supporting the research work under investigation also will be notified by the RIO that an investigation is taking place, as may be required by the agency. Specific agency requirements, such as the time within

which certain steps are to be taken, will be observed and will be communicated by the RIO to the investigating committee and to the subject of the complaint.

3. The investigation will include but not be limited to review of grant or contract files, reports, scholarly publications, manuscripts, and other documents; inspection of laboratory or clinical facilities and/or materials; interviews of parties with an involvement in or knowledge about the case; submission of a formal written report of the committee findings, including the responses of the respondent. All of these activities must be completed in a timely fashion.
4. The respondent will be given a copy of the complaint, the report of the inquiry committee, and the charge to the investigating committee by the RIO. The respondent also will be kept informed by the investigating committee chairperson of the progress of the investigation, and will be given the opportunity to respond to the complaint in writing and to provide information for consideration by the committee.
5. The investigating committee will focus on matters limited to the charge given to it by the RIO. However, the investigating committee may review previous research efforts of the affected personnel, or records of complaints of research misconduct, if germane to the investigation.
6. Neither the university nor the respondent may have legal counsel present at the meetings of the committee, except at the express invitation of the committee. Should legal counsel be invited, the invitation will be extended to both parties. When invited, legal counsel may observe but shall not participate in the proceedings. With the prior approval of the investigating committee, the respondent may be accompanied by a non-attorney colleague.
7. The investigating committee will prepare a written draft report and provide a copy of such report to the respondent, who may review and comment, offer corrections, accept its conclusion, or deny the allegations. The respondent's comments must be received by the investigating committee chair within ten (10) working days of his/her receipt of the report. The final report of the committee, after being reviewed for legal sufficiency by university counsel, will be transmitted to the RIO along with any minority reports and responses by the respondent. The committee's report will respond to the charge given by the RIO and will assess the validity of the allegations.
8. The report of the investigating committee and its attachments along with the recommendation of the RIO will be forwarded by the RIO to the DO for review and disposition. If the DO finds that the subject of the complaint has not engaged in research misconduct, the DO will dismiss the complaint. If the DO finds that the subject of the complaint has engaged in research misconduct, the DO may initiate university procedures leading to possible sanctions. These actions may include, but not be limited to:
 1. withdrawal or correction of all pending and/or published abstracts and papers emanating from the work where research misconduct was found;
 2. removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work;
 3. restitution of funds to sponsoring agency as appropriate;
 4. probation, suspension, salary reduction or initiation of steps leading to possible rank reduction or termination of employment as outlined in Section X of the CMU Professional Personnel Employment Handbook.
9. The DO will inform the respondent, the complainant, the RIO, the AVPAA, and the departmental head/ director of his/her decision.

Other Responsibilities

1. At the conclusion of the investigation, or at any other time required by an involved granting agency, the RIO will notify the granting agency of the facts of the case, the conclusions rendered, and the disposition of the matter by the university.

2. If the alleged misconduct is substantiated by the investigation, the RIO will notify other outside parties as may be appropriate, including publishers or institutions with whom a party found to have committed research misconduct is now or has been professionally affiliated. The DO will consider release of information about the incident to the public.
3. If the alleged misconduct is not substantiated by the investigation, formal efforts will be made to restore fully the reputation of the respondent. If it is further demonstrated that the charges were brought under malicious or dishonest circumstances, then the DO may bring appropriate action against the complainant or others involved.
4. The RIO will keep a permanent record of committee reports, exhibits, minutes of meetings, and other materials. These records will be protected from release, to the extent allowed by law, if release would compromise the conduct of an investigation, constitute unwarranted invasion of privacy, or reveal the content of communications or recommendations of action to be taken. In the case of sponsored projects, the RIO is responsible for determining and complying with reporting requirements; representing the university in all negotiations with the sponsor; and implementing any administrative actions that may be directed by the sponsor.
5. Termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the misconduct procedures. If the respondent refuses to participate in a process after resignation, the committees will use their best efforts to research a conclusion concerning the allegations, noting in its reports the respondent's failure to cooperate and its effect on the committee's review of all the evidence.
6. Consistent with the procedures described above, those responsible for the conduct of inquiries and investigations shall have at any time the authority to supplement and clarify applicable procedures, provided that adequate notice is given to persons affected by such actions.

APPEAL OF RESEARCH MISCONDUCT FINDING AND IMPOSITION OF SANCTIONS

The decision of the DO, including his/her recommendation regarding sanctions, shall be binding on the university and the respondent(s) found to have engaged in research misconduct except that the respondent(s) may appeal the decision to the President of the university.

An appeal may be taken to the President of the university within 30 days after the date of notification of the DO's decision by filing a written notice of appeal with the President. The decision of the President shall be final.

PROTECTION OF AFFECTED PARTIES

The confidentiality and privacy of all parties involved in a research misconduct inquiry or investigation shall be respected insofar as it does not interfere with the university's legal obligation to investigate allegations of misconduct and to take corrective action.

To the extent permitted by law and university policies, the university will protect the identity of respondent(s) of the inquiry and investigation.

To the extent permitted by law and university policies, the university will protect the identity and privacy of those individuals who, in good faith, report apparent misconduct or furnish information regarding such alleged misconduct. Retaliation of any kind against an individual who, in good faith, alleges misconduct or cooperated with the investigation, is prohibited and the retaliator may be subject to discipline under university policies.

To the extent permitted by law and university policies, the documents, records and other information gathered by the RIO, the DO, or the committees for the inquiry and/or investigation shall be kept confidential.

The university shall undertake diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct when such allegations are not confirmed, and to protect the positions and reputations of those persons who, in good faith, report apparent misconduct.

GRANTING AGENCY RIGHTS

Granting agencies, both federal and non-federal, may also take action against the respondent(s) and/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, debarment from future awards, and/or criminal sanctions. The granting agencies may choose to proceed in their investigation, or may decide to act upon the university's findings.

EDUCATING FACULTY, STAFF AND STUDENTS INVOLVED IN RESEARCH

Efforts should be made by AVPAA and department heads on an ongoing basis to inform their research and administrative staff, faculty members and students of the university's policies and procedures for dealing with instances of alleged or apparent misconduct in research.

This policy will be maintained by the Office of Sponsored Programs and will be made available to all university employees on the Office of Sponsored Programs web page. Upon request, the Director of Sponsored Programs will provide authorized officials of a sponsoring agency with copies of the university's policies and procedures regarding misconduct in research.