# 15.99.03.D1.01 Ethics in Research, Scholarship and Creative Work

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## Procedure Statement

Texas A&M University-Central Texas (TAMUCT) is committed to the highest ethical standards of research scholarship and creative work. All TAMUCT employees and students, and visiting scholars, share the responsibility of reporting abuse of those standards and any other indications of fraud or misconduct in research, scholarship and creative work.

## Reason for Procedure

This standard administrative procedure describes the process for assessing an allegation of misconduct in research, scholarship or creative work.

## Procedures and Responsibilities

1. DUTIES OF THE DESIGNATED OFFICER

1.1 Preliminary Assessment

Upon receipt of a complaint alleging scientific misconduct, the designated officer shall conduct a preliminary assessment as provided in System Regulation 15.99.03, Section 3: Evaluating Allegations of Misconduct. If the preliminary assessment warrants an inquiry, the process proceeds to the inquiry stage.

1.2 Inquiry

While conducting an inquiry, the designated officer:

1.2.1 initiates the inquiry process.

1.2.2 notifies the research standards officers, who may support the inquiry; appropriate institutional officials; the respondent; and if necessary, federal agencies, that an inquiry is underway. At this point, the complainant is not identified in the event the inquiry does not proceed to an investigation.

1.2.3 sequesters research records.

1.2.4 appoints the Research Compliance Officer (RCO), or similarly qualified faculty, as an advisor to the inquiry, along with a minimum of a three-person inquiry committee from the list of Research Standard Officers (RSOs). One of the RSOs will be the chair of the inquiry committee, as elected by the RSOs, and work with the Designated Officer to ensure the inquiry is completed,

1.2.5 develops the charge to the inquiry committee and provides advice on appropriate procedures.

1.2.6 determines whether a time extension will be allowed.

1.2.7 transmits the final inquiry report and any response received from the respondent to the deciding official. The designated officer will notify the respondent and complainant of the results of the inquiry. Based on the recommendations in the final inquiry report, the deciding official, in consultation with the designated officer, will determine if an investigation is warranted.

1.3 Investigation

When conducting an investigation, the designated officer:

1.3.1 initiates the investigation process if approved by the deciding official.

1.3.2 shall appoint research standards officers as identified below with the RCO as advisor, with a minimum of three RSO investigation members. One RSO will be chair of the investigation, as elected by the RSOs, and works with the Designated Official until the investigation is complete.

1.3.3 develops a written charge to the investigation committee that identifies the name of the respondent, defines misconduct in research, scholarship, or creative work, and describes the allegations and related issues. The charge shall state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and any key witnesses to determine whether, based on a preponderance of the evidence, misconduct in research, scholarship, or creative work occurred, and if so, to what extent, who was responsible, and its seriousness.

1.3.4 convenes an initial meeting with the investigation committee, and a representative of the TAMUS Office of General Counsel, and provides them with advice on appropriate procedures.

1.3.5 determines whether a time extension will be allowed.

1.3.6 transmits the final investigation report and any response received from the respondent to the deciding official.

## 2. CONDUCT AN INQUIRY

### 2.1 Initiation of an Inquiry

If the designated officer determines that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified and it meets the definition of misconduct in research, scholarship or creative work, he/she will inform the deciding official and initiate the inquiry process within 15 working days of receiving the allegation. This time limit may be extended by the designated officer for good cause; the extension must be documented in the record. The inquiry shall be conducted as outlined in System Regulation 15.99.03, Section 5.1: Inquiry.

### 2.2 Purpose of Inquiry

The purpose of an inquiry is to conduct an initial review of the evidence to determine whether to conduct an investigation. It does not require a full review of all the evidence related to the allegation.

### 2.3 Sequestering of Relevant Records

The designated officer should, on or before the date that the respondent is notified or the inquiry begins, whichever is earlier, promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.

### 2.4 Interim Protective Actions

At any time during a research misconduct proceeding, the designated officer shall take appropriate interim actions to protect public health, federal funds and equipment, and the integrity of the federally supported research process. The necessary actions will vary according to the circumstances of each case, but examples of actions that may be necessary include delaying the publication of research results with the provision that results will be shared with the public only after consultation with the designated officer, providing for closer supervision of one or more researchers, requiring approvals for actions relating to the research that did not previously require approval, auditing pertinent records, or taking steps to contact other institutions that may be affected by an allegation of research misconduct.

### 2.5 Time Limit and Expenses for Completing the Inquiry Process

The inquiry committee shall have 60 calendar days from the date an inquiry is initiated to complete the inquiry process with the 60 days including the time of the

initial inquiry. If more time is required, an extension must be requested from and approved by the designated officer. The extension and the reason for the extension must be documented in the record and the inquiry report. The respondent must also be notified of the extension. All expenses for an inquiry must be approved by the designated officer prior to expenditure (e.g., travel expenses for expert witnesses).

2.6 Notification of Initiation of an Inquiry to Respondent

The designated officer shall notify each potential respondent that an inquiry has been initiated as provided in System Regulation 15.99.03, Section 5.1.1. The notification shall (1) identify the specific allegations; (2) define misconduct in research, scholarship, or creative work with respect to the allegations; (3) identify whether federal funding was involved; (4) list the names of the members of the inquiry committee (if appointed) and expert witness(es) (if any); (5) state the respondent's rights; (6) address the respondent's obligation as an employee of TAMUCT to cooperate; and (7) describe the need to maintain confidentiality.

2.7 The Inquiry Committee

The designated officer should take reasonable steps to assure that appointed members of the inquiry committee do not have unresolved personal, professional, or financial conflicts of interest with the respondent, complainant, potential witnesses, or others involved in the matter. The Financial Conflict of Interest Officer will indicate in writing that the committee members have no financial conflict of interest with the complainant or respondent before the committee proceeds with their inquiry. Any such conflict which a reasonable person would consider to demonstrate potential bias shall disqualify the individual from selection. The respondent has the right to challenge an appointment, with the deciding official making the final decision on appointed members. The designated officer shall appoint the inquiry committee within two (2) working days from the initiation of the inquiry. This time limit may be extended for good cause by the designated officer, especially if conflict of interest requires new members be added to the committee; the extension must be documented in the record. The designated officer shall insure that members of the inquiry committee are familiar with regulations and processes regarding scientific misconduct. The inquiry committee shall include three individuals employed by TAMUCT who are research standards officers who do not have actual or potential conflicts of interest in the case and have the necessary expertise to evaluate the evidence and issues related to the allegation, to interview the principals and key witnesses, and to conduct the inquiry. At least one research standards officer in the inquiry must be from the same college of the respondent. The designated officer shall notify the respondent of the proposed committee membership within five working days after the committee is complete. This time limit may be extended for good cause by the designated officer; the extension must be documented in the record.

2.8 Inquiry Process

The designated officer shall share with the Inquiry Committee in writing, material relevant to the inquiry, including notification of the initiation of an inquiry to the respondent. Consistent with TAMUCT Rule 15.99.03.D1 *Ethics in Research,*

*Scholarship and Creative Work*, the Inquiry Committee will normally interview the Complainant, the Respondent, and key witnesses and examine relevant research records and materials. The Inquiry Committee will evaluate the evidence and testimony obtained during the inquiry, and following consultation with the designated officer, will determine whether there is sufficient evidence of possible research misconduct to recommend further investigation. The scope of the inquiry does not include deciding whether research misconduct occurred or conducting exhaustive interviews and analyses. The level of inquiry will answer only if there is a need for a full investigation as specified below. Discussion with the designated officer as to the level of inquiry will be on a case by case basis related to the complaint.

The purpose of an interview at the inquiry stage is to allow each Respondent, Complainant, or witness to tell his or her side of the story. The Inquiry Committee should not speculate about what happened or might have happened. Also, the Inquiry Committee should not disclose information obtained from interviews unless necessary and can be done without identifying the source of the information.

If the Respondent admits to the research misconduct:

2.8.1 The Respondent should be asked immediately to sign a statement attesting to the occurrence and extent of the research misconduct. The statement shall be filed in the Provost's office.

2.8.2 The designated officer and deciding official will determine whether there is a sufficient basis to close the case after the admission is fully documented and all appropriate procedural steps are taken. If there is not a sufficient basis for closing the case, further investigation may be needed to determine the extent of the research misconduct or to explore additional issues.

2.9 Inquiry Report

2.9.1 Contents of Inquiry Report

The written inquiry report must state:

2.9.1.1 the names and titles of the committee members and chair;

2.9.1.2 the name and position of the respondent;

2.9.1.3 all allegations and the source and amount of support, for example, grant numbers, grant applications, contracts, allegations; and all relevant dates;

2.9.1.4 a summary of the inquiry process used;

2.9.1.5 a list of the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents reviewed;

2.9.1.6 a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted; and

2.9.1.7 the committee's recommendation as to whether an investigation is warranted or whether any other actions should be taken if an investigation is not warranted. The TAMUS Office of General Counsel should review the report for legal sufficiency before finalizing and providing it to the designated officer. The final report, including the review by the TAMUS Office of General Counsel, should be completed within 60 calendar days after the initiation of the inquiry.

2.9.2 Comments on the Draft Report by the Respondent

Within ten (10) business days of the respondent's receipt of the draft report, after comment by the TAMUS Office of General Counsel, the respondent shall provide comments, if any, to the designated officer who will send it to the inquiry committee. This time limit may be extended for good cause by the designated officer with approval of the deciding officer; the extension must be documented in the record. These comments will become part of the final report and record. Based on the comments by the respondent, the inquiry committee may revise the report as appropriate.

2.10 Final Decision by the Deciding Official

The deciding official, in consultation with the designated officer, shall determine whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation within five working days of receiving the final report.

2.11 Decision to Investigate

If the deciding official concludes from the inquiry report that an investigation will be conducted, the designated officer will notify the President, the TAMUS Office of General Counsel, and appropriate federal funding agencies (if involved) within the prescribed time in federal regulations, and forward a copy of the final inquiry report, the respondent's comments, if any, and a copy of the relevant rules, policies and procedures.

2.12 Decision Not to Investigate

If an investigation is not warranted, the case can be closed. If the inquiry was begun at the request of a federal funding agency, or if a federal funding agency requests a copy of the final inquiry report, the designated officer will send a copy of the final inquiry report and the institutional decision to the federal agency. If the committee recommends other actions, but no investigation, the deciding official shall decide whether to accept the recommendation(s), and so inform the

President, the TAMUS Office of General Counsel, and appropriate federal funding agencies of these actions, if necessary.

2.13 Restoration of the Respondent's Reputation and Research Capabilities

If an investigation is not warranted, the respondent may request, and the designated officer may recommend to the deciding official, that any reasonable, practical, and appropriate efforts to restore the reputation of persons alleged to have engaged in research misconduct, but against whom no findings are found of research misconduct, is made.

## 3. CONDUCTING AN INVESTIGATION

### 3.1 Initiation and Purpose of an Investigation

After reviewing findings of the inquiry committee, if the deciding official, in consultation with the designated officer, determines that an investigation is warranted, the investigation shall be initiated within the maximum time allowed by System Regulation 15.99.03 (30 calendar days). The investigation shall be conducted as outlined in System Regulation 15.99.03, Section 5.2 and TAMUCT Rule 15.99.03.

### 3.2 Notification of Initiation of an Investigation of Respondent

The designated officer will notify the respondent of the initiation of an investigation as required by System Regulation 15.99.03. The notification shall include: (1) a copy of the inquiry report; (2) the specific allegations; (3) the sources of research funding; (4) the definition of misconduct; (5) the procedures to be followed in the investigation and (6) the documents required by System Regulation 15.99.03, Section 6.1.

### 3.3 The Investigation Committee

#### 3.3.1 Committee Membership

The designated officer shall appoint a committee comprised of three RSOs from the list of graduate faculty members. The chair of the investigation committee will be an RSO as elected by the committee. The investigative committee membership will not include members from the inquiry committee.

#### 3.3.2 Initial Meeting

The designated officer will convene an initial meeting with the investigation committee, and a representative of the TAMUS Office of General Counsel, and provide them with advice on appropriate procedures. At the initial meeting, the committee shall develop an investigation plan. The committee shall complete the plan as soon as reasonably possible. The investigation plan will include (1) an inventory of all previously secured evidence and testimony; (2) a determination of whether additional evidence should be secured; (3) who should be

interviewed; (4) a proposed schedule of meetings, briefings from experts, and interviews; and (5) anticipated analyses of evidence (scientific, forensic, or other); and all expenses for the investigation must be approved by the designated officer prior to expenditure.

3.3.3 Changes in the Scope of Respondents

During the investigation, if additional information becomes available that substantially changes the scope of the investigation or would suggest additional respondents, the committee shall notify the designated officer. The designated officer shall consult with the deciding official regarding this notification and take appropriate actions consistent with system regulations and university rules.

3.4 Investigation Report

3.4.1 Contents of the Investigation Report

3.4.1.1 The report shall describe the facts leading to the University's investigation, including (1) a chronology of the research at issue; (2) the persons involved in the alleged misconduct; (3) the identity of the complainant; (4) any associated grant applications or publications; and (5) any public health issues.

3.4.1.2 The report shall summarize (1) the University's inquiry and investigation processes, including the composition of the committees; (2) the persons interviewed, noting any inconsistencies between individuals and the credibility of each; (3) the evidence secured and reviewed; (4) the rules and procedures used; and (5) other factors that may have influenced the proceedings.

3.4.1.3 The report shall provide references to appropriate sources. All relevant dates, allegations and the source and basis for each allegation, relevant funding sources, names of experts used, and any additional misconduct issues that arose during the inquiry and/or investigation stages should be included. Copies of significant evidence shall be appended as exhibits to the report.

3.4.1.4 The report shall also summarize each claim that the respondent raised in his/her defense against the misconduct allegations and cite the source of each claim. Any inconsistencies among the respondent's various claims shall be noted. The report shall not consider claims that do not address the allegations at issue.

3.4.2 Determinations of the Committee on Misconduct

The committee shall determine the type of misconduct the respondent committed. The report shall indicate the extent and seriousness of the

misconduct, including its effect on previous research findings, research subjects, and the laboratory or project in which the misconduct occurred. If the committee determines that the respondent committed misconduct with respect to any issue, the report shall (1) thoroughly document the commonly accepted practice of the relevant scientific community at the time the misconduct occurred, especially the discipline of the respondent; (2) indicate the extent of the respondent's deviation; and (3) why the respondent's behavior is a serious deviation from that standard. If the committee concludes that honest error or difference of scientific opinion occurred with respect to any issue, the report shall describe the evidence supporting that finding.

3.4.3 Findings and Recommendations

The investigation report will state the findings of the committee for each issue identified. The investigation report shall make separate findings regarding whether or not each issue constitutes misconduct. The committee will recommend sanctions commensurate with the misconduct, level of intent, and whether it was an isolated event or part of a pattern.

Recommended sanctions and actions may include, but not be limited to:

3.4.3.1 withdrawal or correction of all pending or published abstracts and papers emanating from the research or creative work where the misconduct was found;

3.4.3.2 removal of the responsible person from the particular project;

3.4.3.3 letter of reprimand to be placed in the individual's personnel file;

3.4.3.4 special monitoring of future work;

3.4.3.5 required training in compliance and ethics in research, scholarship, and creative work;

3.4.3.6 reduction in pay;

3.4.3.7 reduction in academic or employment rank;

3.4.3.8 probation;

3.4.3.9 loss of research equipment and/or space;

3.4.3.10 termination of employment and/or expulsion from the university;

3.4.3.11 restitution of funds;

3.4.4 Transmitting the Draft Investigation Report

Once the committee has completed the investigation report, the draft will be transmitted to the designated officer. A copy will also be transmitted to the TAMUS Office of General Counsel to review for legal sufficiency to review the document and transmit it back to the designated officer. After the TAMUS Office of General Counsel's comments have been incorporated, the report will be finalized, and the designated officer will transmit to the respondent a copy of the investigation report for comments. The respondent will be allowed to review and comment on the investigation report within 5 business days. These time limits may be extended for good cause by the designated officer with approval of the deciding officer; the extension must be documented in the record.

3.4.5 Transmitting the Final Investigation Report

After all comments have been received, the investigation committee may supplement the investigation report, if needed. The designated officer shall transmit the final report with attachments, along with any comments received from the respondent and any supplement provided by the investigation committee, to the deciding official and, if necessary, to federal funding agencies.

3.5 Adjudication by the Deciding Official

Consistent with System Regulation 15.99.03, Section 5.3: Adjudication, the deciding official shall render a final decision on the committee's findings in writing within 15 calendar days after receiving the investigation report. The designated officer shall immediately transmit the final decision to the respondent. The deciding official may exonerate the respondent and instruct the designated officer to develop plans to restore the respondent's reputation and research capabilities and to protect the good faith complainant against retaliation.

3.5.1 If the allegations of misconduct are substantiated, the deciding official will instruct that appropriate actions be taken. If the deciding officer is the Provost, the respondent may appeal the decision to the President, only if the decision is termination. The President's decision is final. The President may accept, alter, or overturn the decision of the Provost.

4. APPEAL AND REVIEW

4.1 Contesting a Termination

If the sanction is termination, the respondent may appeal the decision in accordance with System policies, regulations and University rules and procedures. For cases in which the respondent is a faculty member, refer to System Policy 12.01 and Regulation 32.01.01; for cases in which the respondent is a non-faculty employee, refer to System Regulation 32.01.02.

## Related Statutes, Policies, or Requirements

System Regulation *15.99.03 Ethics in Research, Scholarship and Creative Work*

University Rule *15.99.03.D1 Ethics in Research, Scholarship and Creative Work*

## Contact Office

Office of Chief Research Officer (Associate Provost/Associate Vice President of Graduate Studies and Research) 254 501-5823