

**The Lutheran University Association, Inc.,
d/b/a Valparaiso University**

Research Misconduct Policy

One of the most fundamental purposes of Valparaiso University is striving for truth and knowledge. Valparaiso University values the honesty and integrity of our research community. In accordance with these values, the University provides policies and procedures to review, investigate, and report allegations of misconduct among academic researchers. This Policy applies to faculty, staff, and students involved in funded or unfunded research activities associated with the University.

The following procedures under this Policy conform to the Public Health Service, Department of Health and Human Services, Final Rule 42 Code of Federal Regulations (CFR) Part 93.

Definitions

Research Misconduct: A behavior that fails to respect the intellectual contributions or property of others that intentionally impedes the progress of research, that risks corrupting the research record, or that compromises the integrity of research practices. Research misconduct does not include unintentional error or honest differences in interpretation or judgments of data.

Examples of research misconduct include, but are not limited to the following:

- Fabrication of data: making up data or results and recording or reporting them.
- Falsification of data: 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.
- Misrepresentation: reckless disregard for the truth by stating or presenting a material or significant falsehood; or omitting a fact so that what is stated or presented as a whole states or presents a material or significant falsehood.
- Plagiarism: representing of another's work as one's own; the appropriation of another person's ideas, processes, results, or words without giving appropriate credit. This includes self-plagiarism, which is the reuse of one's own work in multiple publications without proper citation of the original work.
- Misappropriating other's ideas: the unauthorized use of privileged information (such as violation of confidentiality in peer review), however obtained.
- Interference: intentionally and without authorization taking or sequestering or materially damaging any research-related property of another used or produced in the conduct of research.
- Material failure to comply with established requirements that relate to the conduct of research (e.g., for the protection of researchers, human subjects, animal subjects, or the public).
- Misappropriating research funds, including but not limited to the diversion of external funds to purposes not appropriately related to the funded research project.

Complainant: A person who makes an allegation of research misconduct.

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

Allegation: Any written or oral statement or other indication of possible research misconduct.

Good Faith Allegation: An allegation made with the honest belief that research misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

Inquiry: The initial fact-finding to determine whether an allegation or apparent instance of research misconduct warrants an investigation.

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

Research Record: Any data, document, computer file, 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 research misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos, photographs; X-ray film; slides; biological materials; computer 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.

Retaliation: Any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has made a good faith allegation of research misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.

Procedures for Handling Allegations of Research Misconduct

Overview

After possible research misconduct comes to the attention of the department chair or dean of the college, the review process for the case of alleged misconduct consists of two phases: inquiry and investigation. Procedures for each phase are described below. Also described are procedures for reporting to the funding agency (where applicable) and taking interim administrative action when serious circumstances call for immediate precautions. There are also provisions for appealing a determination of research misconduct.

The Filing of a Complaint and the Initiation of an Inquiry

Allegations of research misconduct shall be reported to the dean of the college where the alleged research misconduct occurred. He or she may counsel confidentially any individual who comes forward with an allegation of misconduct. If the dean of the college, in consultation with the department chair as appropriate, has determined that the concern does fall under the jurisdiction

of this Policy, he or she will discuss the inquiry and investigation procedures with the individual who had questions about the integrity of a research project (the complainant). If the complainant chooses to make a formal allegation, a written complaint must be submitted to the dean specifying both the alleged misconduct and the evidence that supports the allegation.

It is strongly encouraged that allegations not be made anonymously, for this precludes the acquisition of further pertinent information from the complainant. The University will attempt to honor any requests by the complainant for anonymity; however, anonymity cannot be guaranteed if a formal investigation is initiated.

Initial Response to Possible Misconduct

If a formal complaint is filed, the dean of the college, within seven (7) days, determines if the alleged misconduct falls under the jurisdiction of the Policy on research misconduct and if there is sufficient cause to warrant an inquiry. If the answers to both questions are yes, an inquiry must begin as soon as possible. If the answer to either question is no, then the complainant shall be apprised of the negative decision.

If a formal complaint is not filed, the dean of the college, in consultation with the department chair as appropriate, where the alleged misconduct occurred may still initiate an inquiry. Once aware of potential research misconduct, by whatever means, the dean of the college is obligated to determine whether the evidence appears strong enough to merit conducting an inquiry.

Even if the subject of the allegations (the respondent) leaves the University before the case is resolved, the University will continue the examination of the allegations and reach a conclusion. If there is a finding of misconduct, the University will notify the institution with which the respondent is currently affiliated.

Inquiry

1. Purpose

In the inquiry, factual information is gathered and expeditiously reviewed to determine whether an investigation is to be conducted. An inquiry does not require a full review of the evidence related to the allegation, and is NOT a formal hearing, nor is it to conclude that misconduct has occurred. The inquiry is intended to separate allegations deserving of further and more detailed examination from frivolous, unjustified, or clearly mistaken allegations.

2. Process

To initiate an inquiry, the dean of the college shall notify the respondent, in writing, of the allegations and the process that will follow. Notification will be made in writing and copies will be securely maintained and held confidential. The final inquiry report will also be kept by the dean of the college for at least three (3) years. This file will not become a part of the respondent's employment or student record at the University unless a subsequent investigation results in a final determination of research misconduct. To the greatest extent possible, the inquiry proceedings will be kept confidential in order to protect the rights of all parties involved.

The dean of the college, with the assistance of the department chair as appropriate, must promptly take all reasonable steps to obtain custody of all the research records, instruments, and evidence (collectively, the “evidence”), or copies of the evidence if it is also currently being used by others, and keep such evidence in a secure place. Cases that depend specifically upon the observations or statements of the complainant cannot proceed without the involvement of that individual in the inquiry; other cases that can rely on documentary evidence may permit the complainant to remain anonymous to the respondent.

The respondent is obligated to cooperate in providing the material necessary to conduct the inquiry and will be so informed by the dean of the college when the inquiry is initiated. Uncooperative behavior may result in immediate implementation of a formal investigation and appropriate institutional sanctions. The respondent must be given an opportunity to comment on the allegations during the inquiry and to respond to the inquiry findings, and his or her comments will be made part of the final inquiry record. No party in an inquiry may be accompanied by or represented by legal counsel, but any person interviewed by the dean may be accompanied by an adviser or observer of his or her choice.

The inquiry phase and the final report of the findings should be completed within sixty (60) days of the initiation of the inquiry or within a shorter time period if so specified by a funding agency. If the inquiry takes longer than sixty (60) days to complete, the final report must include documentation of the reasons for exceeding sixty (60) days.

The University will, to the greatest extent possible, protect the complainant against retaliation. Individuals engaging in acts of retaliation will be subject to grievance proceedings and/or disciplinary action.

3. Findings

The dean of the college shall render a decision on whether or not the allegations merit an investigation. The respondent must be notified whether the inquiry found that an investigation is warranted, and this notice must also include a copy or refer to this Research Misconduct Policy. The University may, but is not required to, notify the complainant if the inquiry found an investigation is warranted, and may include relevant portions of the inquiry report.

In the case of allegations found to warrant an investigation, the dean of the college will promptly initiate such an investigation. If an allegation is found to be unsupported but has been submitted in good faith, no further formal action, other than informing all parties involved in the inquiry, will be taken. The University must keep a record of the inquiry for at least seven (7) years after its termination, and provide such records to a funding agency, where applicable, if requested.

4. Reporting to the Funding Agency

An agency sponsoring a research project in which misconduct is alleged or suspected should be notified by the dean of the college in writing as soon as the decision is made to undertake an investigation, and no later than on the date the investigation begins. Agency guidelines for such situations should be followed. A funding agency may reserve the right to be involved in an investigation, or to conduct an independent investigation--prior to, during, or after the University investigation--if the allegations are against one of its awardees.

The University also will notify the funding agency at any stage of the inquiry or investigation if it is ascertained that any of the following conditions exist:

- An immediate health and/or environmental hazard is involved.
- There is an immediate need to protect federal funds or equipment.
- There is an immediate need to protect the interests of a person making the allegations or of the individual who is the subject of the allegations (and/or his/her co-investigators and associates, if any).
- It is probable that the alleged incident is going to be reported publicly.
- There is reasonable indication of criminal violation.

Investigation

1. Purpose

The investigation will commence as soon as the dean of the college decides that it is warranted based on the inquiry result. The investigation broadens the scope of the inquiry and is the formal examination and evaluation of all pertinent facts to determine whether misconduct has occurred. The investigation should look carefully at the substance of the charges and examine all relevant evidence.

2. Process

Upon completing an inquiry and finding that an investigation is warranted, the dean of the college will initiate the investigation within thirty (30) days. The dean of the college will also notify the funding agency, when applicable, within thirty (30) days of his or her decision to begin an investigation.

The procedures in conducting the investigation should be in compliance with any agency guidelines that must be followed if the research is supported by external funding. The investigation may consist of a combination of activities including, but not limited to:

- Review and copying of data, proposals, correspondence, and other pertinent documents at the University, at the granting agency, or elsewhere.
- Review of published materials and of manuscripts submitted or in preparation.
- Inspection of laboratory or other facilities and/or materials.
- Interviewing of parties with an involvement in or knowledge about the case, including both the complainant and the respondent. Complete summaries of these interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the documentary record of the investigation.

All involved University parties are obligated to cooperate with the proceedings in providing information relating to the case. All relevant documentary information must be provided to the respondent in a timely manner to facilitate the preparation of a response. The respondent shall be provided the opportunity during the investigation to address the charges and evidence in detail. The complainant also should have the opportunity to review the evidence to ensure completeness--to ensure, for example, that no key documents are missing. NOTE: No party in

an investigation may be accompanied by or represented by legal counsel when appearing before the dean of the college.

To the greatest extent possible, the investigation proceedings will be kept confidential. However, it should be noted that confidentiality cannot be assured during an investigation, which is a much more formal, wide-ranging proceeding than an inquiry. In the course of an investigation, additional information may emerge that justifies broadening the scope of the investigation beyond the initial allegations. The respondent should be informed when significant new directions of investigations are undertaken.

Significant developments during the investigation will be reported in writing by the dean of the college to the funding agency in accordance with agency guidelines. Documentation of the proceedings in order to substantiate the investigation findings must be prepared and will be made available to the funding agency, as required.

After conducting his or her review, the dean of the college will prepare a draft report of findings, provide a copy to the respondent and complainant for comment, and then incorporate the respondent's and complainant's comments (if any) in the final report. This report must:

- describe the procedure followed, the nature of the allegations and how and from whom information was obtained;
- detail the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent, including any comments made by the respondent and complainant;
- detail the findings and the basis for those findings, including whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
- identify the funding agency, if any, including;
- detail the recommendations for the resolution of the case, including correction of the research record if there is a finding of research misconduct or research error, and including sanctions recommended if there is a finding of misconduct (see below entitled "Resolution"); and
- include the actual text or an accurate summary of the views of any individual found to have engaged in misconduct, and identify whether any publications need correction or retraction.

The dean of the college then will submit the final report to the Provost and Vice President for Academic Affairs. The investigation is complete when the Provost and Vice President for Academic Affairs has reviewed the report, made a determination on the case, and recommended sanctions to be imposed. Written notification of the determination and/or sanctions shall be given to the complainant(s), the respondent(s), each respondent's department chair and college dean, and the funding agency, if any.

The full report will be sent to the respondent; if there is more than one respondent then each will receive all those parts of the report that are pertinent to his or her role in the case. If the identity of the complainant is known to the dean of the college, he or she should be provided with those portions of the final report that address his or her role and opinions in the investigation. A copy

of this report and all documentation relevant to substantiating the investigation's findings will be kept in a secure and confidential file. If there is a final determination of misconduct, then the inquiry and investigation reports will become part of the respondent's employment or student file at the University.

An investigation must be completed within one hundred twenty (120) days of its initiation (including submission of the final report). However, the nature of some cases may render the deadline difficult to meet. If the dean of the college determines that the full process cannot be completed in one hundred twenty (120) days, then an interim report is to be completed prior to the deadline, which must detail the reason(s) for delay.

If the investigation cannot be completed by the deadline and the research under scrutiny was supported by the U.S. Public Health Service (PHS), then the college dean or Associate Director of Sponsored Research will submit to the Office of Scientific Integrity (OSI) a written request for an extension, including the interim report on its progress to date and an estimate of the date of completion of the report. Any request for extension must balance the need for a thorough and rigorous examination of the facts and the interests of the respondent and the funding agency in a timely resolution of the matter. If the request is granted, the University will file periodic progress reports as requested by the OSI. Non-PHS funding agencies may have other guidelines or regulations to be followed.

3. Findings

The dean's findings of an investigation are to be submitted to the Provost and should include one of the following:

- No misconduct or serious research error was committed.
- No misconduct was committed, but serious scientific or other research errors were committed.
- Research misconduct was committed.

The Provost will review the final report and findings and, within thirty (30) days, make a determination on the case. Section 5, below ("Resolution") details the follow-up action that must be taken after the determination is made. The decision of the President is the final University determination.

4. Appeal

If the determination is against the respondent, the respondent may, within thirty (30) days of the distribution of that determination, file a written appeal with the President. An appeal must be restricted to the body of evidence already presented, and the grounds for appeal must be limited to failure to follow appropriate procedures in the investigation, or sanctions not in keeping with the findings.

5. Resolution

No finding of Research Misconduct

All persons and agencies informed of the investigation must be notified promptly of the finding of no misconduct by the dean. If the unsubstantiated allegations of misconduct are found to have been maliciously motivated, appropriate grievance procedures or disciplinary action may be

initiated against the complainant. If the allegations, however incorrect, are found to have been made in good faith, no disciplinary measures will be taken and efforts will be made to prevent retaliatory action against the complainant.

No Finding of Research Misconduct, but Finding of Serious Carelessness or Serious Scientific or Other Research Error

All persons and agencies/organizations informed of the investigation must be notified promptly of the finding of no misconduct by the dean of the college. The University will, however, consider means to correct the research record. In the event that the dean of the college discovers serious research errors, it will include in its final report specific recommendations for action, such as notifying editors of journals in which the respondent's research was published or to which manuscripts were sent, other institutions with which the respondent has been affiliated, collaborators, professional societies, state professional licensing boards (if applicable), etc.

Finding of Research Misconduct

All persons and agencies/organizations informed of the investigation must be notified promptly of the finding of research misconduct by the dean of the college. In the final report, the dean of the college will recommend specific sanctions to be imposed on the respondent(s).

Sanctions, discipline, or other actions will be administered through the University's regular procedures, and in conformity with the *Faculty Handbook*. Sanctions or other actions may also be taken by funding agencies.