

**LOYOLA UNIVERSITY NEW ORLEANS  
MISCONDUCT IN SPONSORED RESEARCH  
POLICY**

**A. Purpose and General Statement**

Loyola University New Orleans (“Loyola” or “the University”) encourages its faculty, staff, and students to contribute to the store of human knowledge through research. To that end, the University strongly supports faculty and staff pursuing and securing external sources of funding for research. Towards maintaining high ethical standards in the conduct of this pursuit, Loyola is committed to (1) reviewing, investigating, and properly reporting all accusations of misconduct associated with research occurring at, or on behalf of, the University; (2) implementing a timely process which is thorough, competent, objective, fair, and respectful of all employees and students involved in the proceedings; (3) imposing appropriate administrative actions in cases where an allegation of misconduct is substantiated; and (4) complying with all applicable requirements imposed by sponsors of externally funded research associated with a misconduct allegation.

**B. Definitions**

**"Active allegation"** means an allegation which has been made in accordance with the procedures specified for this policy, has not been retracted, and is not associated with proceedings that have been discontinued or come to close.

**“Complainant”** means the individual who makes an allegation of misconduct.

**“Fabrication”** is making up data or results and recording or reporting them.

**“Falsification”** is 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.

**“Federally sponsored research”** means research which is (1) supported, in whole or in part, by federal funding, whether directly or through a sub-agreement, or (2) the subject of an application, bid, or proposal for federal funding (whether or not any funding is awarded). In some cases, state agencies and other non-federal sponsors impose federal misconduct requirements on the research projects they support; for the purposes of this policy, these projects will be considered federally sponsored research.

**“Misconduct”** means fabrication, falsification, or plagiarism in proposing, performing, reviewing research, or in reporting results. In this definition, results include preliminary findings. Further, reporting is not limited to publications, but includes additional forums such as abstracts, oral presentations, grant applications, database inclusions, progress reports, reports presented at professional meetings, and records of these presentations. This definition of misconduct does **not** include error or honest differences in interpretations or judgments of data or other findings.

Examples of misconduct include (but are not limited to) intentionally

- Directing, encouraging, or otherwise allowing individuals contributing to sponsored research to commit fabrication, falsification, or plagiarism in proposing or performing the research, or in reporting the research results;
- Omitting conflicting or non-conforming data from publications in a manner that misrepresents the research; **or**
- Misrepresenting credentials or findings in a research grant application.

“**Plagiarism**” is the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.

“**Research**” means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to general knowledge. This definition includes, but is not limited to, research in science, engineering, mathematics, economics, education, linguistics, medicine, psychology, social sciences, statistics, and research involving human subjects or animals. If this definition of research is more restrictive than that provided by the sponsor, then for the purposes of this policy, the sponsor’s definition will supersede this one.

“**Research record**” means the record of data or results that embody the facts resulting from the research. The research record includes, but is not limited to, research proposals; laboratory records, both physical and electronic; progress reports; abstracts; theses; oral presentations; internal reports; and journal articles.

“**Research Integrity Officer (RIO)**” means the institutional official responsible for determining whether allegations of research misconduct warrant inquiries and for overseeing inquiries and investigations. The Provost appoints an RIO and reviews the appointment on an annual basis. (There is no limit on the number of terms served.)

“**Respondent**” means the person against whom an allegation is directed or who is the subject of a misconduct proceeding.

“**Sponsored project agreement**” is defined broadly to include all application guidelines, award agreements, sub-award agreements, and other applicable regulations and policies pertaining to the sponsored research for which the misconduct is alleged to have occurred.

“**Sponsored research**” means research that is (1) supported, in whole or in part, by an external grant, contract, procurement agreement, or sub-agreement, or (2) the subject of an application, bid, or proposal for such sponsorship.

### C. Scope

1. This policy applies to all students, faculty and staff of the University as well as any other persons who participate in sponsored research at the University.

If a conflict occurs between this policy and federal regulations or applicable award terms, the federal regulations and award terms take precedence over this policy.

If a conflict occurs between this policy and any other Loyola policy, this policy takes precedence in the areas of notification and initial administrative review, or in order to fulfill an applicable government regulation or award term. The former exception is required to provide the University with sufficient time to ascertain whether federal regulations or additional requirements concerning Respondent notification and data sequestration apply. In all cases of alleged misconduct, the University will notify the Respondent of the complaint against him or her in as timely a manner as is reasonably and practically possible.

This policy is limited to addressing misconduct as defined herein. Such misconduct is distinct from wrongful behavior that occurs in the research setting but does not affect the integrity of the research record. This policy does not supersede or establish an alternative to any existing regulations or procedures for handling fiscal improprieties, the ethical treatment of human or animal subjects, the handling of hazardous materials, discrimination, or criminal matters.<sup>i</sup>

## 2. Time Limitations

This policy does not apply to allegations of misconduct reported to the University six years or more after the misconduct is alleged to have occurred. Exceptions to this six-year limitation are as follows:

Subsequent use exception: The Respondent continues or renews any incident of alleged research misconduct that occurred before the six-year limitation through the citation, republication, or other use for the potential benefit of the Respondent.

Health or safety of the public exception: The University or sponsor determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.

Grandfather exception: The University received the allegation of research misconduct before the effective date of this policy.

Sponsor override exception: The six-year limitation is inconsistent with sponsor regulations or award terms.

## D. Specific Statements of Policy

### 1. Multiphase Response to Allegations

The Office of Academic Affairs will provide the services, facilities, and procedures for providing a thorough, competent, objective, fair, and timely response to each active allegation of

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<sup>i</sup> In some cases, such as when the alleged mistreatment of human subjects is associated with fraudulence or falsification in a matter that affects the research record, this policy may apply in conjunction with additional regulations such as the “Common Rule” cited as reference 3.

misconduct. Full proceedings will comprise a preliminary review, an inquiry, an investigation, and an adjudication phase. Allegations of research misconduct are directed to the Research Integrity Officer (RIO), and the RIO oversees the preliminary review, inquiry and investigation of the allegations as described in Section E. The adjudication is conducted pursuant to the University policies that apply to the Respondent, which depend on the Respondent's status as specified in sections D.10 and E.5 of this Policy. At any point in the process, the Complainant may retract the allegations and, if warranted, the RIO may terminate the proceedings, after consultation with the Provost.

A finding of research misconduct requires that

- There be a significant departure from accepted practices of the relevant research community;
- The misconduct be committed intentionally, or knowingly, or recklessly; and
- The allegation be proven by a preponderance of evidence.

If such a finding is made, appropriate corrective actions may be imposed as specified in D.10.

## 2. Adherence to External Requirements

The University will follow all applicable sponsor requirements and provide full and continuing cooperation with the sponsor in responding to any allegation of misconduct falling under the scope of this policy. In cases when the sponsor is a federal or state agency, the University may elect—or be required—to have the sponsor directly conduct the proceedings.

If an employee is alleged or found to have falsified an internal document (such as a grant application clearance form or an IRB protocol-approval form) associated with government-sponsored research, and this behavior is not within the scope of the sponsor's definition of misconduct, then the sponsor will not be notified about the allegation of misconduct unless other incidences of misconduct fitting the sponsor's definition are also alleged or such other incidences are either uncovered or reasonably suspected during the course of the proceedings.

## 3. Protection of Informants

The University will protect the rights, reputation, and standing of each individual who makes a good faith report of apparent misconduct. Safeguards include protection against retaliation (see D.6); fair and objective procedures for the examination and resolution of allegations of misconduct; and diligence in protecting the positions and reputations of those individuals making good faith allegations. The identity of Complainants and other informants will be limited to those individuals who need to know in order to carry out a thorough, competent, objective, and fair proceeding and to abide by any and all applicable regulations and requirements. The Complainant may withdraw an allegation at any time, although withdrawal of an allegation may not necessarily result in termination of proceedings under this policy.

## 4. Protection of Respondents

The University will protect the rights, reputation, and standing of each individual against whom misconduct is alleged. To the extent that is possible, consistent with the needs of the investigation, and allowed by applicable law, regulations, and contractual requirements, the identity of the Respondent will be disclosed only to those individuals who need to know in order to carry out a thorough, competent, objective, and fair proceeding and to abide by any and all applicable regulations and requirements. Other safeguards include an initial review of each allegation to prevent unnecessary inquiries or sequestration of data; timely written notification of allegations of misconduct falling under the purview of this policy; a description of all such allegations; reasonable access to the data and other evidence supporting the allegations; and the opportunity to respond to allegations, the supporting evidence, and the proposed findings of misconduct (if any).

The University will make all reasonable and practical efforts, as appropriate, to protect or restore the reputation of persons alleged to have engaged in misconduct but against whom no finding of misconduct is made.

#### 5. Protection of Research Subjects

The University protects the privacy of research subjects. The disclosure of any records or evidence from which research subjects might be identified will be permitted only to those individuals who need to know and only to the extent necessary to conduct a thorough, competent, objective, and fair misconduct proceeding in conformance with applicable regulations and requirements.

#### 6. Protection against Retaliation

The [University's Non-Retaliation Policy](#) prohibits employees from retaliating against Complainants and other members of the University for making good faith reports of misconduct. The University will make reasonable and practical efforts to counter potential or actual retaliation against, and to restore the reputation of, these individuals.

#### 7. Right to Comment and Review Evidence

The Respondent will have an opportunity to respond to any allegations prior to a formal inquiry and throughout the investigation and adjudicative processes. Afterwards, the Respondent will receive copies of the draft reports from the inquiry and investigation committees. He or she will be afforded an opportunity to provide a written response to each report; and each response submitted will become part of the record. In cases where an investigation is launched, provisions will be made for the investigating committee to consider and address the response(s) before issuing a final report. The Respondent will receive a copy of, or reasonably supervised access to, the evidence on which the report is based.

In the case of multiple Respondents, only those portions of the reports pertaining to an individual's own activities will be provided.

#### 8. Records and Evidence

The goal of the University is to conduct misconduct proceedings in a manner that is minimally disruptive to the Respondent. However, that goal must be balanced by the fact that unaltered records and evidence are required to conduct a proper review and to ensure that any finding in the favor of the Respondent is viewed as credible by the University and larger community.

If the alleged misconduct is associated with federally sponsored research, the University will take reasonable and practical steps to obtain custody of the research record and evidence either upon or before notifying the Respondent of any allegation of misconduct falling under the scope of this policy. The records and evidence will be inventoried and sequestered in a secure manner. For records or evidence encompassing scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. Further, the University will undertake all reasonable and practical efforts to obtain additional research records or evidence discovered during the course of the misconduct proceeding.

The University will take custody of the research record if either of the following conditions are met:

- The sponsor requires such action.
- The allegation is sufficiently credible and specific so that the potential evidence of misconduct may be identified.

Detailed, confidential written records will be kept of all inquiry and investigation proceedings and reports. Additional records will be maintained as necessary to comply with applicable regulations and requirements. All records will be retained for at least three years after the completion of any investigation proceedings. This policy does not obviate other policies or regulations, such as 42 CFR 93.317 (reference 2), that require a longer retention period.

## 9. Special Circumstances

The University will take appropriate interim actions to protect public health, federal funds and equipment, and the integrity and reputation of the sponsor. These actions will depend on the circumstances of each case. Appropriate interim actions may include immediate notification of the sponsor, closer supervision of one or more of the researchers, removal of a researcher from the project, notification of research subjects and the public, and other measures. The appropriate interim actions will be determined by the Provost. If the Provost cannot be reached in a timely manner, the RIO or President will determine and implement those interim actions which should be taken immediately.

For allegations associated with research sponsored by the National Science Foundation (NSF), the University will notify the NSF Office of Inspector General immediately if the RIO has reason to believe that any of the following circumstances exist:

- There is a reasonable indication of possible violations of civil or criminal law;
- Public health or safety are at risk;
- The agency's resources, reputation, or other interests need protecting;

- Federal action may be needed to protect the interests of the Respondent or others;
- The research community or public should be informed; **or**
- Research activities should be suspended.

The circumstances in which the National Institutes of Health must be notified are similar and listed in §93.318 of reference 2. Agency notification will be made through the Office of Academic Affairs.

## 10. Final Actions

If an allegation of misconduct is not substantiated after proper review, the proceedings will be discontinued. The Respondent, Complainant, and any other individuals, sponsors, and oversight agencies who were informed of the allegation by the University will be notified of this finding.

If the investigation confirms that misconduct has occurred, sanctions may be imposed by the Provost after adjudication by the appropriate University procedure, which depends on the status of the individual whose conduct is in question: for students, the Student Code of Conduct at <http://studentaffairs.loyno.edu/student-handbook>.; for staff, the Human Resources Policies and Procedures Manual at <http://finance.loyno.edu/human-resources/policies-procedures-benefits-manual>; for faculty, the Faculty Handbook at <http://academicaffairs.loyno.edu/faculty-handbook>.

In deciding which administrative actions to take, the Provost will consider the seriousness of the misconduct, including, but not limited to, the degree to which the misconduct was reckless; was an isolated event or part of a pattern; or had significant impact on the research record, research subjects, other researchers, other institutions, or the public welfare.

To the extent allowed by the award agreement and applicable regulations, the sponsor may conduct its own investigation and impose independent sanctions, including criminal penalties.

In order to mitigate the potential damage caused by the misconduct, the Provost may recommend additional administrative actions, including but not limited to the following:

- Withdrawing or correcting all pending or published abstracts and papers emanating from the activity for which misconduct was found.
- Making public announcements about the activity for which misconduct was found.
- Removing the responsible person from the particular project and requiring special monitoring of future work.

## 11. Appeals

A Respondent may appeal a finding of misconduct and/or the sanction(s) imposed to the President, whose decision will be final.

## E. Procedures

Overview: Allegations of research misconduct are made to the RIO. Immediately after receiving a written allegation of misconduct, the RIO initiates the following multistep process:

## 1. Preliminary Review

- a. The RIO determines whether the alleged misconduct is associated with a sponsored project and whether the RIO has a conflict of interest which may impede his or her ability to serve this role in an objective manner; Provost names a replacement RIO as necessary.
- b. The RIO determines whether an inquiry is warranted, by determining whether any of the following conditions apply:
  - The alleged activity falls outside of the definition of misconduct provided herein.
  - The alleged activity otherwise falls outside of the scope of this policy.
  - The sponsor provides one or more specific criteria for determining whether an inquiry is required, and the criteria are not met.

If any of the conditions apply, or if the Complainant retracts the allegation, then an inquiry is not warranted, and the RIO discontinues the proceedings after consultation with the Provost.

If none of the conditions apply, then an inquiry is warranted and the RIO proceeds with an inquiry to determine whether the allegation has substance. The Provost selects an Inquiry Committee and the RIO notifies the Respondent.

- c. The RIO determines whether special circumstances exist (see section D.9). If the RIO determines that special circumstances exist, the RIO notifies the sponsoring agency if warranted, and the Provost determines the interim actions to be taken.

## 2. Inquiry

- a. The Provost appoints the Inquiry Committee
  - o Committee will consist of the RIO, at least four (4) faculty members, including one or more of each of the following:
    - i. A faculty member of a college other than the one in which the conduct is alleged to have occurred;
    - ii. A member of the IRB (preferably, one who specializes in ethics) or of the Loyola University Animal Care and Use Committee (if the allegation involves sponsored animal research);
    - iii. A member of the library faculty (if plagiarism is alleged);
    - iv. A faculty member who has expertise in a field of research that is the same as or similar to that in which the misconduct is alleged to have occurred; and

- v. If the Respondent is a student or was a student at the time of the alleged misconduct, the Student Conduct Officer, who will serve an advisory role as a non-voting member.
  - o If no Loyola faculty member with sufficient expertise is available or capable of serving on the committee without an unresolved conflict of interest, the Provost may recruit an expert from outside of the University.
- b. The Inquiry Committee determines whether an allegation has substance, and, thus, whether an investigation is warranted,
  - o If no investigation is warranted, the review proceedings are terminated; Respondent and other necessary parties are notified in a timely manner.
  - o If an investigation is warranted, Provost selects Investigation Committee

### 3. Investigation

#### a. Investigation Committee

- o The Investigation Committee will consist of the Inquiry Committee and any additional members that the Provost deems necessary to conduct a thorough, competent, objective, and fair investigation.

#### b. Investigation Committee determines whether misconduct has occurred based on criteria for a finding of research misconduct specified in D.1.

- o If the Investigation Committee determines that there has been no misconduct, review is terminated; Respondent and other necessary parties are notified in a timely manner.
- o If the Investigation Committee determines that misconduct has occurred, sanctions may be imposed by the Provost after adjudication by the appropriate University procedure.

### 4. Adjudication and Sanctions

The adjudication procedure depends on the status of the individual whose conduct is in question: for students, the Student Code of Conduct at <http://studentaffairs.loyno.edu/student-handbook>.; for staff, the Human Resources Policies and Procedures Manual at <http://finance.loyno.edu/human-resources/policies-procedures-benefits-manual>; for faculty, the Faculty Handbook at <http://academicaffairs.loyno.edu/faculty-handbook>.

The Provost imposes sanctions after adjudication. In deciding which administrative actions to take, the Provost will consider the record and the factors set forth in D.10 of the Policy.

### 5. Appeals made to President (Final Determination)

The Respondent may appeal a finding of misconduct and the sanctions imposed to the President, whose decision is final.

## References

1. “Executive Office of the President; Federal Policy on Research Misconduct; Preamble for Research Misconduct Policy.” Notification of Final Policy. 65 Fed. Reg. 76260, 76264. (December 6, 2000.) Retrieved April 15, 2015, from <http://www.gpo.gov/fdsys/pkg/FR-2000-12-06/pdf/00-30852.pdf>.
2. “Public Health Services Policies on Research Misconduct.” Final Rule. 42 CFR 93. (2005.) Retrieved April 15, 2015, from [https://ori.hhs.gov/sites/default/files/42\\_cfr\\_parts\\_50\\_and\\_93\\_2005.pdf](https://ori.hhs.gov/sites/default/files/42_cfr_parts_50_and_93_2005.pdf).
3. Department of Health and Human Services. “Protection of Human Subjects.” 45 CFR 46. Subpart A. (2009.) Retrieved April 15, 2015, from <http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html>
4. “Research Misconduct in Science and Engineering Research.” Final Rule. 45 CFR 689. (2002.) Retrieved April 17, 2015, from <http://www.gpo.gov/fdsys/pkg/CFR-2012-title45-vol3/pdf/CFR-2012-title45-vol3-part689.pdf>
5. Department of Health and Human Services Office of Research Integrity. (2013.) *Handling Misconduct – Inquiry Issues*. [Agency Responses to Inquiries]. Rockville, MD. Retrieved April 15, 2015, from <https://ori.hhs.gov/ori-responses-issues>.
6. National Endowment for the Humanities. *Research Misconduct Policy*. (2001.) Retrieved April 15, 2015, from <http://www.neh.gov/grants/manage/research-misconduct-policy>.
7. Loyola University New Orleans. (2000.) *Misconduct in Research Policy*. Retrieved April 3, 2014, from <http://academicaffairs.loyno.edu/sites/academicaffairs.loyno.edu/files/Loyno%20policy%20-%201990.pdf>.
8. Loyola University New Orleans. (2014.) *Human Resources Policies + Procedures Manual*. Policy 1-16: Non-Retaliation Policy. Retrieved March 3, 2015, from <http://finance.loyno.edu/human-resources/human-resources-manual-ethics-violations-reporting-non-retaliation-policy>.