

# Procedures for Addressing Allegations of Misconduct in Research and Creative Work

Temple University, in accordance with Temple’s Policy on Addressing Allegations of Misconduct in Research and Creative Work (“Policy”), has an affirmative duty to protect the integrity of all research conducted on its behalf. Temple University is responsible for ensuring that the policy and associated procedures for addressing allegations of research misconduct meet applicable requirements, including those of the [PHS Policies on Research Misconduct](#) (42 CFR Part 93, “the PHS regulation”). As such the procedures herein apply as follows:

## I. APPLICABILITY

These procedures do not supersede or establish an alternative to existing regulations for handling research misconduct involving federally supported research. They do not replace federal regulations, and in case of any conflict between this document and the applicable regulation, the regulation will prevail.

## II. DEFINITIONS

In addition to the definitions included in the Temple Policy on Addressing Allegations of Misconduct in Research, the following terms apply with regards to this Procedures:

1. ***Allegation*** means a disclosure of possible Research Misconduct through any means of communication and brought directly to the attention of an institutional official.
2. ***Assessment*** means the review of an Allegation of Research Misconduct to determine whether it appears to fall within the definition of Research Misconduct; and is sufficiently credible, specific and timely so that potential Evidence of Research Misconduct may be identified. The Assessment only involves the review of readily accessible information relevant to the Allegation.
3. ***Complainant*** means an individual, entity, or any other agency who in Good Faith makes an Allegation of Research Misconduct.
4. ***Committee*** means a group of individuals, with relevant scientific and professional expertise and free of real or perceived conflicts of interest with any of the parties involved, who are charged by the RIO (as defined below) to conduct an Inquiry or Investigation.
5. ***Evidence*** means anything offered or obtained during a Research Misconduct Proceeding that tends to prove or disprove the existence of an alleged fact. Evidence includes documents, whether in hard copy or electronic form, information, tangible items, and testimony.

6. **Good Faith.** (a) Good Faith as applied to a Complainant or Witness means having a reasonable belief in the truth of one's allegation or testimony, based on the information known to the Complainant or Witness at the time. An allegation or cooperation with a Research Misconduct Proceeding is not in Good Faith if made with knowledge of or reckless disregard for information that would negate the Allegation or testimony. (b) Good faith as applied to an institutional or Committee member means cooperating with the Research Misconduct Proceeding by impartially, without personal, professional or financial conflict of interest, carrying out the duties assigned for the purpose of helping an institution meet its responsibilities.
7. **Inquiry** means information-gathering, preliminary fact-finding, and review of the Evidence to determine whether an Allegation warrants an Investigation.
8. **Investigation** means the formal development of a factual record and the examination of that record to determine whether there is a Research Misconduct Finding.
9. **Institutional record.** The institutional record comprises: (a) The records that Temple University compiles or generates during a Research Misconduct Proceeding, except records the university does not consider or rely on. These records include but are not limited to (1) documentation of the Assessment; (2) if an Inquiry is conducted, the Inquiry report and all records (other than drafts of the report) considered or relied on during the Inquiry, including, but not limited to, research records and the transcripts of any transcribed interviews conducted during the Inquiry, information the Respondent provided to the university, and the documentation of any decision not to investigate; (3) if an investigation is conducted, the Investigation report and all records (other than drafts of the report) considered or relied on during the investigation, including, but not limited to, research records, the transcripts of each interview conducted, and information the Respondent provided to Temple; (4) decision(s) by the Deciding Official, such as the written decision from the Deciding Official; (5) the complete record of any institutional appeal; (b) a single index listing all the research records and evidence that the university compiled during the Research Misconduct Proceeding, except records the university did not consider or rely on; and (c) a general description of the records that were sequestered but not considered or relied on.
10. **Research record** means the record of data or results that embody the facts resulting from scientific inquiry. Data or results may be in physical or electronic form. Examples of items, materials, or information that may be considered part of the research record include, but are not limited to, research proposals, raw data, processed data, clinical research records, laboratory records, study records, laboratory notebooks, progress reports, manuscripts, abstracts, theses, records of oral presentations, online content, lab meeting reports, and journal articles.

11. **Respondent** means the individual against whom an Allegation of Research Misconduct is directed or who is the subject of a Research Misconduct Proceeding.
12. **Retaliation** means an adverse action taken against a Complainant, Witness, or Committee member by an institution or one of its members in response to (a) a Good Faith Allegation of Research Misconduct or (b) Good Faith cooperation with a Research Misconduct Proceeding.
13. **Witness** means any person reasonably identified during the Research Misconduct Proceeding as likely having information regarding any relevant aspects of the Investigation.

### III. Procedures for Addressing Allegations of Research Misconduct

#### A. Assessment

Purpose and Documentation: An assessment is conducted to determine whether an Allegation warrants an Inquiry. Upon receiving an Allegation of Research Misconduct, the RIO, and/or their designee(s), will promptly review readily accessible information relevant to the Allegation to determine whether the Allegation (a) falls within the definition of Research Misconduct, (b) is within the applicability criteria of the Policy, and (c) is credible, specific and timely enough to identify and sequester potential Evidence The RIO or their designee(s) must document the assessment, including, if applicable, whether the subsequent use exception applied.

Outcome: If an Allegation meets the above criteria, the RIO and/or their designee will promptly initiate an Inquiry and sequester all Research Records and other Evidence. If an Allegation does not meet the criteria to proceed to an Inquiry, documentation of the Assessment will be sufficiently detailed to permit a later review of why Temple University did not proceed to an Inquiry.

Notifying the Respondent: At the time of or before beginning the Inquiry, Temple University will make a Good Faith effort to notify the Respondent(s), in writing, that an Allegation(s) of Research Misconduct has been raised against them, the relevant Research Records have or will be sequestered, and an Inquiry will be conducted to decide whether to proceed with an Investigation. If additional Allegations are raised at any time during the Research Misconduct Proceedings, the institution will notify the Respondent(s) in writing. If additional Respondents are identified during the course of the Research Misconduct Proceedings, Temple University will provide written notification to the new Respondent(s). All additional Respondents will be given the same rights and opportunities as the initial respondent. Only allegations specific to a particular Respondent will be included in the notification to that Respondent.

Sequestration of Evidence:

**Institutional Authority and Duties:** The RIO has the authority to secure and/or copy data, Research Records, communications, and other Evidence related to the Allegation(s) to thoroughly review and resolve Allegations of Research Misconduct. Before or at the time of notifying the Respondent(s), Temple University will obtain the original or substantially equivalent copies of all Research Records and other Evidence that are pertinent to the Research Misconduct Proceeding, inventory these materials, sequester the materials in a secure manner, and retain them as prescribed herein. The institution has a duty to obtain, to inventory, and to securely sequester Evidence that extends to whenever additional items become known or relevant to the Inquiry or Investigation. If additional or new Evidence is discovered after the initial sequestration, it should be sequestered as soon as practicable after it is identified. The RIO will work with the appropriate departments and officials as needed to collect, sequester and retain the Evidence. Departments involved in the sequestration of evidence may include the Information and Technology Services (ITS), the Office of University Counsel (OUC), Public Safety, and others as determined appropriate by the RIO.

**Failure to Provide Evidence:** Failure to provide Evidence at the time of sequestration may impact on the credibility of such Evidence if subsequently provided. Further, while failure to provide relevant data when requested shall not be the sole basis for a Research Misconduct Finding, it may be a contributing factor.

**Destruction of Evidence:** The Respondent's destruction of Research Records documenting the questioned research is Evidence of Research Misconduct where a Preponderance of Evidence establishes that the Respondent Intentionally or Knowingly destroyed records after being informed of the Research Misconduct Allegations. The Respondent's failure to provide Research Records documenting the questioned research is evidence of Research Misconduct where the preponderance of evidence indicates the Respondent possesses the records but refuses to provide them upon request.

**Access:** At the discretion of the RIO, during the Research Misconduct Proceedings, the institution will give the Respondent(s) copies of, or reasonable supervised access to, the sequestered materials.

## **B. Inquiry**

**Responsible Parties:** The RIO will conduct the Inquiry or, at their discretion, may appoint one or more subject matter experts, or an Inquiry Committee, to assist in the Inquiry. An Inquiry does not require a full review of all related Evidence.

**Committee Composition:** If an Inquiry Committee is appointed, it shall consist of three or more people who the RIO has vetted for conflicts of interest and appropriate scientific expertise. Inquiry Committee members may be Temple University employees or not. The RIO will facilitate that the Inquiry Committee understand their responsibility to conduct the Research Misconduct Proceedings in compliance with the Policy and these procedures. An Inquiry into Allegations against multiple Respondents may be conducted by the same Inquiry Committee, but there will be separate Inquiry reports and separate determinations

of whether an Investigation is warranted for each Respondent. Inquiry Committee members may also serve both in the Inquiry and the Investigation.

Notification to Respondent: The Respondent will be notified in writing about the name(s) of those appointed to the Inquiry Committee. If the Respondent submits a written objection to any appointed individuals or a member of the Inquiry Committee based on personal, professional, or financial conflict of interest, within seven days of the date of the notification of the proposed membership, the RIO will make a final determination whether conflict exists and replacing the challenged member with a qualified substitute is appropriate.

Timeline: Temple University will complete the Inquiry, including preparation of the Inquiry report and the decisions of the DO of whether an Investigation is warranted, within 90 days of initiating the Inquiry. If circumstances warrant a longer period the RIO and, if applicable, the involved federal agency approves an extension, the Inquiry record and Inquiry report shall include sufficient documentation of the reasons for exceeding the time limit. Respondent(s) will be advised of approved extensions.

Inquiry Report: The contents of a complete Inquiry report must include the following elements:

- a. The names and positions of the Respondent and Complainant(s).
- b. A description of the allegation(s) of Research Misconduct
- c. Details about the funding support, including any grant numbers, grant applications, contracts, and publications listing that support.
- d. The composition of the Inquiry Committee, if used, including name(s), position(s), and subject matter expertise.
- e. An inventory of sequestered research records and other evidence and description of how sequestration was conducted.
- f. Transcripts of any transcribed interviews.
- g. Inquiry timeline and procedural history.
- h. Any scientific or forensic analyses conducted.
- i. The basis for recommending that the allegation(s) warrant, or does not merit, an investigation.
- j. Documentation of potential evidence of honest error or difference of opinion
- k. Any comments on the inquiry report by the respondent or the complainant(s).
- l. Any institutional actions implemented, including internal communications or external communications with journals or funding agencies.

Provision of Draft: The RIO will provide the Respondent with a copy of the draft Inquiry report. Comments from the Respondent must be submitted to the RIO within 10 calendar days from the Respondent's receipt of the Inquiry report. The RIO or Inquiry Committee will review the Respondent's comments and may, but are not required to, make changes to the draft report based on such comments.

Finalizing the Inquiry: Once the Inquiry report is finalized, Respondent will, within a reasonable amount of time, be provided a copy of the final Inquiry report and notified in writing whether the Inquiry found that an Investigation is warranted along with a copy of or reference to the Policy, these Procedures, and any applicable regulation. The Inquiry report will be added to the Institutional Record.

Outcome: If an Investigation is warranted, the Respondent will also be notified of any additional allegations raised against them that were not addressed in the Inquiry and the Inquiry report will be provided to the cognizant federal agency within 30 days of determining that an Investigation is warranted. If the RIO, Inquiry Committee, or other designated subject matter expert determines that an Investigation is not warranted, the institution will keep sufficiently detailed documentation to permit a later review of why the institution did not proceed to an investigation

Notification to the Complainant: On a case-by-case basis, Temple University may choose to notify the Complainant that there will be an Investigation of the alleged Research Misconduct, and the university will take, to the extent possible, the same notification action for all Complainants if there is more than one Complainant.

### **C. Investigation**

Purpose: The purpose of an investigation is to formally develop a factual record, pursue leads, examine the record, and recommend finding(s) to the DO, who will make the final decision, based on a Preponderance of Evidence, on each Allegation and any institutional actions. As part of its investigation, the university will pursue diligently all significant issues and relevant leads, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

Timeline for Initiation: Within 30 days after deciding an investigation is warranted, Temple University will begin the investigation.

Investigation Committee: An Investigation Committee shall be comprised of three or more members with the appropriate scientific matter to review the Allegation, Evidence, and relevant circumstances. After vetting Investigation committee members for conflicts of interest and appropriate scientific expertise, the RIO, in consultation with the Faculty Senate Personnel Committee as applicable, will appoint the Investigation Committee and facilitate that the members understand their responsibility to conduct the Research Misconduct Proceedings in compliance with the Policy and these procedures. Members of the Investigation Committee may be Temple University employees or not the Investigation Committee will conduct interviews, pursue leads, and examine all Research Records and other Evidence relevant to reaching a decision on the merits of the Allegation(s). The university will use diligent efforts to ensure that the Investigation is thorough, sufficiently documented, and impartial and unbiased to the maximum extent practicable. The university will notify the Respondent(s) in writing of any additional allegations raised against them during the investigation.

Respondent Objections: If the Respondent submits a written objection to any appointed member of the Investigation Committee based on personal, professional, or financial conflict of interest, within seven days of the date of the notification of the proposed membership, the RIO will make a final determination whether conflict exists and replacing the challenged member with a qualified substitute is appropriate.

Interviews: The Investigation Committee will interview each Respondent, Complainant(s), and Witnesses, including Witnesses identified by the Respondent. The institution will number all relevant exhibits and refer to any exhibits shown to the interviewee during the interview by that number. The institution will record and transcribe interviews during the Investigation and make the transcripts available to the interviewee for correction. The institution will include the transcript(s) with any corrections and exhibits in the Institutional Record of the Investigation. The Respondent will not be present during the Witnesses' interviews but will be given the opportunity to review a transcript of those interviews, with redactions as appropriate to maintain confidentiality.

Timeline for Completion: Institution will complete all aspects of an Investigation within 180 days of beginning it, including conducting the investigation, preparing the draft investigation report for each respondent, providing the draft report to each respondent for comment, and transmitting the institutional record including the final investigation report and decision by the Institutional Deciding Official to the cognizant federal agency, if applicable. If circumstances warrant a longer period the RIO and, if applicable, the federal agency involved approves an extension, the Investigation record and Investigation report shall include sufficient documentation of the reasons for exceeding the time limit. Respondent(s) will be advised of approved extensions.

Documenting the Investigation: The Investigation report for each Respondent will include:

- a. Description of the nature of the allegation(s) of research misconduct, including any additional allegation(s) addressed during the research misconduct proceeding.
- b. Description and documentation of funding support, including any grant numbers, grant applications, contracts, and publications listing the funding support. This documentation includes known applications or proposals for support that the respondent has pending with federal agencies.
- c. Description of the specific allegation(s) of research misconduct for consideration in the investigation of the respondent.
- d. Composition of investigation committee, including name(s), position(s), and subject matter expertise.
- e. Inventory of sequestered research records and other evidence, except records the institution did not consider or rely on. This inventory will include manuscripts and funding proposals that were considered or relied on during the investigation. The inventory will also include a description of how any sequestration was conducted during the investigation.

- f. Transcripts of all interviews conducted.
- g. Identification of the specific published papers, manuscripts submitted but not accepted for publication (including online publication), PHS funding applications, progress reports, presentations, posters, or other research records that contain the allegedly falsified, fabricated, or plagiarized material.
- h. Any scientific or forensic analyses conducted.
- i. A copy of these policies and procedures.
- j. Any comments made by the respondent and complainant(s) on the draft investigation report and the committee's consideration of those comments.
- k. A statement for each separate allegation of whether the committee recommends a finding of research misconduct.
- l. If the Committee recommends a finding of research misconduct for an allegation, the investigation report will present a finding for each allegation. These findings will (1) identify the individual(s) who committed the research misconduct; (2) indicate whether the misconduct was falsification, fabrication, and/or plagiarism; (3) indicate whether the misconduct was committed intentionally, knowingly, or recklessly; (4) identify any significant departure from the accepted practices of the relevant research community and that the allegation was proven by a preponderance of the evidence; (5) summarize the facts and analysis supporting the conclusion and consider the merits of any explanation by the respondent; (6) identify the specific funding support; and (7) state whether any publications need correction or retraction.
- m. If the Investigation Committee does *not* recommend a finding of research misconduct for an allegation, the investigation report will provide a detailed rationale for its conclusion.
- n. The Investigation Committee should also provide a list of any current support or known applications or proposals for support that the respondent has pending with federal agencies.

Completing the Investigation: Temple University will give the Respondent a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the research records and other evidence that the investigation committee considered or relied on. The Respondent will submit any comments on the draft report to the institution within 30 calendar days of receiving the draft investigation report. The University will append any comments received to the investigation report.

DO Review of the Investigation Report: The DO will review the Investigation report and make a final written determination of whether the institution found Research Misconduct and, if so, who committed the misconduct. In this statement, the DO will include a description of relevant institutional actions taken or to be taken.

Creating and Transmitting the Institutional Record: After the DO has made a final determination of research misconduct findings, Temple University will add the DO's

written decision to the investigation report and organize the Institutional Record in a logical manner.

Notifying Complainants: Temple University will not, as general practice, provide final copies of reports or details of findings to the Complainants, however if Temple University chooses to notify one Complainant of the Inquiry results in a case, all Complainants will be notified in the same manner, to the extent possible.

#### **IV. University Responsibilities**

Maintain Confidentiality: To the extent possible, the university, and all individuals involved in Research Misconduct Proceedings will limit disclosure of the identity of Respondent(s), Complainant(s), and Witnesses and any confidential or sensitive information obtained while conducting the Research Misconduct Proceedings to those individuals who require such information to perform their specific job duties or responsibilities (“need to know”) consistent with a thorough, competent, objective, and fair Research Misconduct Proceeding, and as allowed by law. Those who need to know may include institutional review boards, journals, editors, publishers, co-authors, corresponding Dean(s), and collaborating institutions. This limitation on disclosure no longer applies once the institution has made a final Research Misconduct Finding. Confidentiality must be maintained for any records or Evidence from which research subjects might be identified with disclose limited to those who need to know.

Avoid Conflicts of Interest: Temple University will take precautions to ensure that individuals responsible for carrying out any part of the Research misconduct proceeding do not have potential, perceived, or actual personal, professional, or financial conflicts of interest with the parties involved and carry research misconduct proceedings in compliance with this policy and all applicable procedures and regulations.

Ensure Cooperation: Temple University will take all reasonable and practical steps to ensure cooperation with the Research Misconduct Proceedings of Respondents and other institutional members, including, but not limited to, their providing information, Research Records and other Evidence.

##### Cooperation with Federal Agencies:

1. Temple University will cooperate with the federal offices and agencies involved in the Research Misconduct Proceedings or compliance review as applicable, including addressing deficiencies or additional Allegations in the Institutional Record if directed, and assisting in administering and enforcing administrative actions imposed by agencies with applicable jurisdiction. Temple University may also take steps to manage published data or acknowledge that data may be unreliable.

2. With respect to Allegations involving funding from the United States Department of Health and Human Services (HHS), Temple University will notify ORI and report, as applicable, Allegations of Research Misconduct occurring within six years of the date HHS or Temple University receives an allegation of research misconduct, subject to the following exceptions:
  - a. The six-year time limitation does not apply if the Respondent continues or renews any incident of alleged Research Misconduct that occurred before the six-year period through the use of, republication of, or citation to the portion(s) of the Research Record (e.g., processed data, journal articles, funding proposals, data repositories) alleged to have been Fabricated, Falsified, or Plagiarized, for the potential benefit of the Respondent (“subsequent use exception”).
  - b. The six-year time limitation also does not apply if ORI or Temple University, following consultation with ORI, following consultation with ORI, determines that the alleged Research Misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.

Burden of Proof: Temple University will bear the burden of proof, by a Preponderance of the Evidence, for making a Research Misconduct Finding.

Coordination with Other University Offices: In the course of Research Misconduct Proceedings, information or Evidence may raise questions about compliance with other University policies. In such cases, the DO or RIO shall refer the matter to the appropriate University official for consideration under the applicable policy.

## **V. Other Considerations**

Affirmative Defenses: The Respondent has the burden of going forward with and proving, by a Preponderance of the Evidence, affirmative defenses raised.

Evidence of Honest Errors: Temple University will give due consideration to admissible, credible evidence of honest errors or differences of opinion presented by the Respondent.

Admissions: If admitting to research misconduct, the Respondent will sign a written statement specifying the falsification, fabrication, and/or plagiarism that occurred, which research records were affected, and that the falsification, fabrication and/or plagiarism was committed intentionally, knowingly, or recklessly and was a significant departure from accepted practices of the relevant research community. Temple University will promptly notify, as applicable, federal agencies in advance if at any point during the proceedings (including the assessment, inquiry or investigation) it plans to close a research misconduct case because the respondent has admitted to committing research misconduct or a settlement with the respondent has been reached. If the respondent admits to research misconduct, the institution will not close the case until providing the applicable federal

official(s) with the respondent's signed, written admission. The institution must also provide a written statement explaining how the institution determined that the respondent's admission fully addresses the scope of the misconduct.

Multiple Institutions: If the alleged research misconduct involves multiple institutions, Temple University may work closely with the other affected institutions to determine whether a joint research misconduct proceeding will be conducted. If so, the cooperating institutions will choose an institution to serve as the lead institution. In a joint research misconduct proceeding, the lead institution will obtain research records and other evidence pertinent to the proceeding, including witness testimony, from the other relevant institutions. By mutual agreement, the joint research misconduct proceeding may include committee members from the institutions involved. The determination of whether further inquiry and/or investigation is warranted, whether research misconduct occurred, and the institutional actions to be taken may be made by the institutions jointly or tasked to the lead institution.

Multiple Respondents: If the alleged research misconduct involves multiple respondents, Temple University may either conduct a separate inquiry for each new respondent or add them to the ongoing proceedings. The institution must give additional respondent(s) notice of and an opportunity to respond to the allegations.

Special Circumstances: At any time during the misconduct proceedings, Temple University will immediately notify federal agencies as applicable if any of the following circumstances arise:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
2. Funding, resources, or interests are threatened.
3. Research activities should be suspended.
4. There is reasonable indication of possible violations of civil or criminal law.
5. Federal action is required to protect the interests of those involved in the research misconduct proceeding.
6. The federal agency may need to take appropriate steps to safeguard evidence and protect the rights of those involved.
7. Notification is required by law or regulation.

Interim Administrative Actions: Throughout the research misconduct proceeding and in accordance with other applicable policies or collective bargaining agreements, the University may, in accordance with applicable regulations and institutional policy take interim actions to protect the integrity of the research process, public health, sponsor funds, equipment, or other resources, , and to ensure that the purposes of the research activity and the funding are carried out. The RIO shall, at any time during a research misconduct proceeding, notify appropriate federal or other officials of facts that may be relevant and shall make other interim reports as required by research sponsors according to applicable regulations.

Allegations or Other Actions not Made in Good Faith: If the DO, in consultation with the RIO, Investigation Committee, and other institutional officials as appropriate, determines that the Complainant knowingly made a false allegation of research misconduct or that a Witness, Official, or Committee Member did not act in Good Faith, the DO shall determine whether any administrative action will be taken or whether any disciplinary action will be recommended to the appropriate University official(s).

Records Retention: Temple University will maintain the Institutional Record and all sequestered evidence, including physical objects (regardless of whether the evidence is part of the institutional record), in a secure manner for a minimum of seven years after the completion of the proceeding or the completion of any proceeding, whichever is later, unless custody has been transferred as appropriate or required.

The institution will provide information related to the alleged research misconduct and proceedings to ORI, or other federal offices involved, upon request and transfer custody or provide copies of the institutional record or any component of it and any sequestered evidence to the appropriate federal agency, regardless of whether the evidence is included in the institutional record. Additionally, the institution will promptly notify the pertinent federal office(s) of any special circumstances that may arise.

Except as may otherwise be prescribed by applicable law, Temple will maintain confidentiality of any records or evidence from which research subjects might be identified and will limit disclosure to those who need to know to carry out a research misconduct proceeding and associated institutional processes. Before or at the time of notifying the respondent of the allegation(s) and whenever additional items become known or relevant, the institution will promptly take all reasonable and practical steps to obtain all research records and other evidence and sequester them securely. Temple will ensure that the institutional record contains all required elements, i.e., research records that were compiled and considered during the proceedings, Assessment documentation, and Inquiry and/or Investigation reports. Temple University will maintain the Institutional Record and all sequestered research records and other evidence in a secure manner, for the retention period required after the termination of the research misconduct proceedings and as required under the regulations applicable to each case.