

VERMONT STATE COLLEGES SYSTEM

CHANCELLOR'S PROCEDURES FOR IMPLEMENTATION OF POLICY 435:  
*RESEARCH MISCONDUCT*

**I. PURPOSE**

These procedures outline the steps the Vermont State Colleges System will take to respond to allegations or evidence of research misconduct. The following procedures are adopted pursuant to Vermont State Colleges Policy 435, *Externally Funded Research*, and are meant to comply with the requirements of the Public Health Service (PHS) Policies on Research Misconduct, [CFR Title I, Subchapter H, Part 93](#).

The procedures apply to allegations of research misconduct involving a person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with a VSC institution.

**II. DEFINITIONS**

These definitions, as established by 42 CFR § 93.103, apply to these procedures:

**“Allegation”** a written or oral statement of possible research misconduct.

**“Complainant”** is the individual(s) who brings forward an allegation of research misconduct.

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

**“Falsification”** means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

**“Inquiry”** means the initial fact-finding, such as through individual interviews and document reviews, to determine whether an allegation of research misconduct warrants an investigation.

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

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

**“Research Integrity Officer”** is the institutional official, appointed by the chief academic officer

at each VSC institution, who is responsible for receiving allegations of research misconduct and overseeing the research misconduct process in accordance with the institution's policies and procedures.

**“Research Misconduct”** means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

**“Respondent”** is the individual(s) against whom an allegation of research misconduct have been made.

### **III. RESPONSIBILITIES & PROCEDURES**

#### **A. Responsibility to Report Misconduct**

When an instance of research misconduct is observed or suspected, VSC employees and students must report the allegation to an Institutional official, such as the Chief Academic Officer, a Dean, a Director, or the President. The allegation can be a written or oral statement. The person who makes the report is the complainant. The person against whom an allegation of scientific misconduct is directed is the respondent. The allegation must be reported as soon as possible to the Institution's appointed Research Integrity Officer.

#### **B. Assessment of Allegations**

Upon receiving an allegation of research misconduct, the Research Integrity Officer, or designee, will immediately assess the allegation to determine if it warrants an inquiry, based on these factors:

1. The allegation is sufficiently credible and specific so that potential evidence of misconduct may be identified; and
2. The allegation meets the definition of research misconduct as outlined in the definitions above

The assessment period should be brief, preferably concluded within a week.

#### **C. Confidentiality**

The Research Integrity Officer, or designee, shall take reasonable actions to maintain the confidentiality of information regarding the complainant, the respondent, and other affected individuals. As required by 42 CFR § 93.108, this includes:

1. Limiting disclosure of the identity of respondents and complainants to those who

need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and

2. Except as otherwise prescribed by law, limiting the disclosure of any records or evidence from which research subjects might be identified to those who need to know in or order to carry out a research misconduct proceeding.

D. Protecting the Complainants, Witnesses, and Committee Members

Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the Research Integrity Officer. The Research Integrity Officer, or designee, shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

E. Protecting the Respondent

As requested and as appropriate, the Research Integrity Officer, or designee, and other Institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

During the research misconduct proceeding, the Research Integrity Officer is responsible for ensuring that respondents receive all the notices and opportunities provided for in 42 CFR Part 93. Respondents may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal adviser to interviews or meetings on the case.

F. Initiation and Purpose of Inquiry

If the Research Integrity Officer, or designee, determines that the criteria for an inquiry are met, they will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation. As soon as practical after the Research Integrity Officer, or designee, determines that an inquiry is required, they will secure the relevant research records as described in section H and notify the President of the institution. The Research Integrity Officer will also notify either the Health and Human Services Office of Research Integrity (for research funded by PHS agencies) or the funding agency (for all other research).

#### G. Notice to Respondent and Sequestration of Research Records

After the determination has been made that an investigation is warranted, the Research Integrity Officer, or designee, must make a good faith effort to notify the respondent in writing. If the inquiry subsequently identifies additional respondents, they must be notified in writing.

On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the Research Integrity Officer, or designee, must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner. When the research records or evidence encompass 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.

#### H. Appointment of the Inquiry Committee

The Research Integrity Officer, or designee, in consultation with other Institutional officials as appropriate, will appoint an inquiry committee and committee chair as soon after the initiation of the inquiry as is practical. The inquiry committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.

#### I. Inquiry Process

The Research Integrity Officer, or designee, will prepare a charge for the inquiry committee that:

1. Sets forth the time for completion of the inquiry;
2. Describes the allegations and any related issues identified during the allegation assessment;
3. States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;
4. States that an investigation is warranted if the committee determines: (a) there is a

reasonable basis for concluding that the allegation falls within the definition of research misconduct and is within the jurisdictional criteria of 42 CFR § 93.102(b); and, (b) the allegation may have substance, based on the committee's review during the inquiry.

5. Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and 42 CFR § 93.309(a).

At the committee's first meeting, the Research Integrity Officer, or designee, will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The Research Integrity Officer, or designee, will be present or available throughout the inquiry to advise the committee as needed.

The inquiry committee will normally interview the complainant, the respondent, and key witnesses as well as examining relevant research records and materials. Then the inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the Research Integrity Officer, or designee, the committee members will decide whether an investigation is warranted based on the criteria in this policy and 42 CFR § 93.307(d). The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved.

The inquiry, including preparation of the final inquiry report and the decision on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the Research Integrity Officer determines that circumstances clearly warrant a longer period. If the Research Integrity Officer, or designee, approves an extension, the inquiry period must include documentation of the reasons for exceeding the 60-day period. The respondent must also be notified of the extension.

#### J. Inquiry Report

A written report must be prepared that includes the following information:

1. the name and position of the respondent;
2. a description of the allegations of research misconduct;
3. information about the awarded funding under inquiry, including, for example, grant

- numbers, grant applications, contracts and publications;
- 4. the basis for recommending or not recommending that the allegations warrant an investigation;
- 5. any comments on the draft report by the respondent or complainant

It could also include the names and titles of the committee and experts who conducted the inquiry, a summary of the inquiry process; a list of research records reviewed; summaries of any interviews; and whether any other actions should be taken if an investigation is not recommended. The VSC Legal Counsel shall review the report.

K. Notification to Respondent and Opportunity to Comment

The Research Integrity Officer, or designee, shall notify the respondent whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment within 10 days, and include a copy of or refer to 42 CFR Part 93 and the VSC policies and procedures on research misconduct. A confidentiality agreement shall be a condition for access to the report.

Any comments that are submitted by the respondent or complainant will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the Research Integrity Officer, or designee.

L. Institutional Decision and Notification

The Research Integrity Officer, or designee, will transmit the final inquiry report and any comments to the Institution's designated Deciding Official, typically the chief academic officer. The Deciding Official will determine in writing whether an investigation is warranted.

Within 30 calendar days of the Deciding Official's decision that an investigation is warranted, the Research Integrity Officer will provide to the Office of Research Integrity (or, in the case of non-PHS funding, to the cognizant funding agency) the Deciding Official's written decision and a copy of the inquiry report. The Research Integrity Officer will also notify those Institutional officials who need to know of the Deciding Official's decision.

If the Deciding Official decides that an investigation is not warranted, the Research Integrity Officer shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by the

cognizant funding agency of the reasons why an investigation was not conducted. These documents must be provided to funding agency personnel upon request.

#### M. Investigation Process

Upon receipt of the final Inquiry Report, the Research Integrity Officer, or designee, will appoint at least three members of University or College staff or tenured faculty at any College to an Investigation Committee to conduct the Investigation. A majority of the members of the Investigation Committee will be tenured faculty actively involved in research in the same field as the Respondent or a related field, and a majority of the members of the Investigation Committee will be tenured faculty members at colleges other than the Respondent's College. In addition, no staff member of the Respondent's College may serve on the Investigation Committee. The Investigation will begin within 30 calendar days after the President, Chancellor, or other designated Deciding Official. The Investigation Committee will give the Respondent written notice of any new Allegations of Research Misconduct not addressed during the Inquiry or in the initial notice of the Investigation within a reasonable amount of time after a determination to pursue any such new Allegations.

The investigation committee and the Research Integrity Officer, or designee, must:

1. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;
2. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
3. Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
4. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to the Office of Research Integrity (for PHS funded projects)

or to the cognizant funding agency (for other research). If the investigation will not be completed within this 120-day period, the Research Integrity Officer will submit to the Office of Research Integrity or the cognizant federal agency a written request for an extension, setting forth the reasons for the delay. If the extension is granted, the Research Integrity Officer will ensure that periodic progress reports are filed with the funding agency as directed.

#### N. The Investigation Report

The investigation committee and the Research Integrity Officer, or designee, are responsible for preparing a written draft report of the investigation that:

1. Describes the nature of the allegation of research misconduct, including identification of the respondent;
2. Includes information about the awarded funding under inquiry, including, for example, grant numbers, grant applications, contracts and publications;
3. Describes the specific allegations of research misconduct considered in the investigation;
4. Includes the institutional policies and procedures under which the investigation was conducted;
5. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
6. Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (a) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (b) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion; (c) identify the specific funded support of the research; (d) identify whether any publications need correction or retraction; (e) identify the person(s) responsible for the misconduct; and (f) list any current support or known applications or proposals for support that the respondent has pending with federal agencies.

The Research Integrity Officer, or designee, must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 15 days from the date of receiving the draft report to submit comments to the Research Integrity Officer, or designee. The respondent's comments must be included and considered in the final report.



On a case-by-case basis, the complainant may receive a copy of the draft investigation report, or relevant portions of it, for comment. The complainant's comments must be submitted within 15 days of receiving the draft report. The comments must be included and considered in the final report.

In distributing the draft report, or portions thereof, to the respondent and complainant the Research Integrity Officer, or designee, will inform them of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the Research Integrity Officer may require that the recipient sign a confidentiality agreement or go to the Research Integrity Officer's office to review the report.

The Research Integrity Officer, or designee, will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's and complainant's comments are included and considered. The Research Integrity Officer, or designee, will also provide a draft of the report to the VSC Legal Counsel for review.

O. Decision by Deciding Official

The Research Integrity Officer, or designee, will transmit the final investigation report to the Deciding Official who will determine in writing: (a) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (b) the appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the investigation committee, the Deciding Official will, as part of the written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the Deciding Official may return the report to the investigation committee with a request for further fact-finding or analysis.

When a final decision on the case has been reached, the Research Integrity Officer, or designee, will notify both the respondent and the complainant in writing. The Deciding Official will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The Research Integrity Officer, or designee, is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies. The Research Integrity Officer should also maintain all other evidence and materials for possible agency review.

The final investigation report will be submitted to the Office of Research Integrity (for PHS funding) or the cognizant funding agency (for non-PHS funding) within 120 days of the first meeting of the investigation committee, unless the funding agency has granted an extension.

P. Appeals

The respondent has the right to appeal the findings and the Deciding Official's decision. The appeal must be submitted to the President, or designee, in writing within 7 days of receiving the Deciding Official's decision. The appeal must state the specific part of the decision that the respondent is appealing and include any information the respondent believes should be considered in the request to change the decision. Appeals should be completed within 120 days.

(1) Student Respondents

Both the complainant and respondent have the right to appeal the outcome on the following grounds: (1) procedural error where the error prevented fundamental fairness; (2) the discovery of previously unavailable evidence that could significantly impact the outcome of the case; (3) the determination is arbitrary or capricious; or (4) the institutional action is substantially disproportionate to the findings. Within 7 calendar days of receiving the notice of the determination and any applicable discipline, the parties may appeal to the President of the Institution (or the President's designee) by delivering a written statement of appeal to the President and to the Research Integrity Officer. The Research Integrity Officer will notify the other party of the appeal and the other party will have 7 calendar days in which to submit a written response to the appeal to the President (or the President's designee), with a copy to the Research Integrity Officer. Both parties will be informed simultaneously and in writing, of (1) any change to the institutional action imposed while the appeal is pending, and (2) the final decision, to the extent permitted by law. A copy of the notification will be sent to the Research Integrity Officer and to the VSC's general counsel. The decision of the President (or the President's designee) is final.

(2) Employee Respondents

In cases where the respondent is an employee, the respondent's right to appeal will be governed by the relevant employee collective bargaining agreement or the VSC personnel handbook for those employees not covered by a collective bargaining agreement. The Research Integrity Officer will notify the other party of the appeal and the other party will have 7 calendar days in which to submit a written response to the

appeal to the Chancellor (or the Chancellor's designee), with a copy to the Research Integrity Officer. The complainant may request to meet with the Chancellor. Both parties will be notified, simultaneously and in writing, of (1) any change to the institutional action imposed while the appeal is pending, and (2) the final decision, to the extent permitted by law. A copy of the notification will be sent to the Research Integrity Officer and to the VSC's general counsel.

Q. Notifying Cognizant Federal Agency

Unless an extension has been granted, the Research Integrity Officer must, within the 120-day period for completing the investigation, submit to the Office of Research Integrity or other cognizant federal agency the following:

1. A copy of the final investigation report and any appeal, with all attachments;
2. A statement of whether the institution accepts the findings of the investigation report or outcome of the appeal;
3. A statement of whether the institution found misconduct, and, if so, who committed the misconduct; and
4. A description of any pending or completed administrative actions against the respondent.

R. Maintaining Records

The Research Integrity Officer must maintain records of the research misconduct proceedings in a secure manner for 7 years after completion of the proceedings. The Research Integrity Officer is also responsible for providing any information required by the cognizant federal agency.

S. Completion of Cases

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The Research Integrity Officer must notify the cognizant funding agency in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except:

1. Closing of a case at the inquiry stage on the basis that an investigation is not warranted; or

2. A finding of no misconduct at the investigation stage, which must be reported to the Office of Research Integrity, as prescribed in this policy and 42 CFR § 93.315, or, in the case of non-PHS funding, to the cognizant federal agency.

#### T. Institutional Administrative Actions

If the Deciding Official determines that research misconduct is substantiated by the findings, the Deciding Official will decide on the appropriate actions to be taken, after consultation with other Institutional leaders. The administrative actions may include:

1. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
2. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
3. Restitution of funds to the grantor agency as appropriate; and
4. Other action appropriate to the research misconduct.

#### U. Termination or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution's responsibilities under 42 CFR Part 93.

If the respondent, without admitting to the misconduct, elects to resign after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the Research Integrity Officer and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

#### V. Protection of the Complainant, Witnesses, and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution determines that research misconduct occurred, the Research Integrity Officer, or designee, must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any

witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The Deciding Official will determine, after consulting with the Research Integrity Officer, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them.

W. Allegations Not Made in Good Faith

If relevant, the Deciding Official will determine whether the complainant’s allegations of research misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the Deciding Official determines that there was an absence of good faith, the Deciding Official will determine whether any administrative action should be taken against the person who failed to act in good faith.



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Chancellor

Date	Version	Revision	Approved By
August 17, 2023	1.0	Adopted	Chancellor