

Title: Research Misconduct Policy; Faculty, Staff and Students**Policy Reference: Faculty, Staff and Student Handbooks****Background**

As a recipient of federal research funds, Benedictine University (University) must have policies and procedures in place to handle allegations of research misconduct. Among the applicable requirements are regulations issued by the Public Health Service (PHS), *Policies on Research Misconduct* (42 CFR Part 93, effective June 16, 2005) which require institutions that apply for or receive PHS support for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research to have policies and procedures in place to address and resolve allegations of research misconduct.

Policy Statement

Academic honesty is expected and required of all faculty and research personnel in teaching, research and publication activities. Faculty members are expected to exemplify the best scholarly and ethical standards of their discipline and be a model of academic honesty in their own behavior.

Misconduct in research is inimical to academic honesty, a breach of Benedictine University values and a failure to meet the expectations of scholarly communities for accuracy, validity and integrity in research. Members of the academic community have a responsibility to report what they believe to be research misconduct and to cooperate in investigations of research misconduct. This Policy applies to all research conducted at the University, whether or not federally funded (and whether or not supported by PHS), and to all members of the University's research community who are employed by, are agents of, or are affiliated by contract or other agreement with the University.

Process Statement

Benedictine University promptly, thoroughly, objectively and fairly investigates allegations of research misconduct and protects from retaliation the rights and reputations of all parties involved in allegations of research misconduct, including those suspected of research misconduct and those who report research misconduct in good faith. Members of the University's research community who are found to have committed research misconduct or who make bad faith allegations of research misconduct are subject to disciplinary action up to and including dismissal.

Definitions

- **Research Misconduct:** The fabrication, falsification, plagiarism or other serious deviation from commonly accepted practices in the relevant scientific community for proposing, performing or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences in opinion.
 - 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.
- Plagiarism is the appropriation of another person’s ideas, processes, results or words without giving appropriate credit.
- Serious deviation from accepted practices includes but is not limited to:
 - Abusing confidentiality, including the use of ideas and data gained from:
 - Access to privileged information, or
 - Peer review of proposals considered for funding by agency panels or by internal committees.
 - Stealing, destroying or damaging the research property of others with the intent to alter the research record; and
 - Directing, encouraging or knowingly allowing others to engage in fabrication, falsification or plagiarism.
- **Allegation:** A disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement or other communication to any institutional official.
- **Complainant:** The individual(s) who submits an allegation of research misconduct.
- **Conflict of interest:** External activity or interest that interferes with or adversely affects a faculty or staff member’s capacity to meet University obligations, or calls into question whether the faculty or staff member's professional actions or decisions are determined by considerations other than the best interests of Benedictine University.
- **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 in reckless disregard for or willful ignorance of facts that would disprove the allegation.
- **Inquiry:** Preliminary process of gathering information to determine whether an allegation or apparent instance of research misconduct warrants a formal investigation.
- **Investigation:** The formal examination and evaluation of all relevant facts to determine, based on a preponderance of evidence, whether research misconduct has occurred and, if so, to determine the responsible person and the nature and seriousness of the research misconduct.
- **Research:** A systematic investigation, including research development, testing and reporting, designed to develop or contribute to general knowledge. The term encompasses basic research, applied research, and research training activities in areas such as biomedical and life sciences, natural sciences, humanities and the arts, and social and behavioral sciences.
- **Research personnel:** Anyone participating in research conducted at the University including but not limited to faculty, staff and students. The term “faculty” includes individuals of all faculty designations (including but not limited to “regular”, “probationary”, “tenured”, “term”, “visiting”, or “adjunct”) and of all ranks.
- **Research record:** The record of data or results that embody the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records,



both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles, and any documents and materials provided by the Respondent in the course of the research misconduct proceedings.

- **Respondent:** The individual(s) against whom an allegation of research misconduct is directed or the individual(s) whose actions are the subject of an inquiry or investigation.
- **Retaliation:** Any action that adversely affects the employment or other institutional status of a complainant or other individual and which occurs as a result of the individual's good faith allegation of research misconduct or participation in a research misconduct proceeding.
- **Sequestration:** The collection, segregation and holding under secure and restricted access of research records, equipment and other tangible or intangible information pending the conclusion of the research misconduct investigative process.

Roles and Responsibilities

- All University employees are responsible to:
 - Report observed, suspected or apparent research misconduct to the Provost, Department Chair, the Chief Compliance Officer or any senior University official. Reports of misconduct may be made in person or anonymously by telephone (at 866-326-2747) or via the internet at the Benedictine University Compliance and Ethics Hotline website (www.ben.ethicspoint.com);
 - Report allegations involving any Dean directly to the Provost and allegations against the Provost directly to the President;
 - Cooperate with University officials and the PHS Office of Research Integrity (ORI) (and the investigative office of any other agency that supports or funds research at the University, as applicable) in the review of allegations, and the conduct of inquiries and investigations;
 - Provide relevant information and original research records and materials to University and ORI (and any other sponsoring agency investigative, as applicable) officials conducting the Inquiry and Investigation; and
 - Protect the privacy and confidentiality of Complainants and Respondents.
- The Chief Compliance Officer is responsible to:
 - Diligently oversee the fair, unbiased and efficient administration of this Policy;
 - Assess allegations in consultation with the Provost and/or other University Officials to determine if they fall within the definition of research misconduct and are sufficiently credible and specific to warrant an Inquiry;
 - Dismiss any allegations which are not credible and/or sufficiently specific or which do not meet the definition of research misconduct and in such instances, set forth the reason for the dismissal action in a memorandum, and provide written notice to the Respondent and Complainant of the fact that allegations were dismissed and the reason(s) for the dismissal;
 - Determine if any interim actions are necessary to protect public health, federal funds and equipment and the integrity of the research process, and to recommend such actions to the Provost for implementation;

- Initiate and conclude the Inquiry and Investigation within the time limits established by regulation (where applicable);
- Provide all notices and reports (with opportunity for comment, where applicable) to the Complainant and Respondent as required by this Policy and applicable regulation;
- Sequester research records relating to the research misconduct allegations;
- Provide all required notices and reports to the ORI and the sponsoring agency (and the investigative office of any other agency that sponsors or supports research at the University, as applicable);
- Thoroughly and sufficiently document the Inquiry and Investigation and draft the Inquiry and Investigation Reports; and
- Maintain records (including originals of records and documents where appropriate) of proceedings and actions taken under this Policy for a period of seven (7) years from the date of creation.
- The Provost is responsible to:
 - Implement interim actions as recommended by the Chief Compliance Officer (or document the reasons for modification or declination of such recommended actions);
 - Appoint members of the Inquiry and Investigation Teams;
 - Review the Reports of the Inquiry and Investigation Teams and accept, remand to the Teams or overrule the Teams' findings and determinations of further action;
 - Prepare detailed documentation of any decision to remand or overrule the Investigation Team's determination;
 - Recommend appropriate disciplinary sanctions against Respondents (and Complainants, where applicable);
 - Determine if unsubstantiated allegations were made not in good faith; and
 - Notify the Chief Compliance Officer, and the editors of any affected journals and publications and the institutions, individuals and sponsoring agencies with which the individual has been affiliated, of the final outcome of the Investigation and disciplinary decision.

Policy Administration

- A finding of research misconduct made under this Policy requires that:
 - There be a significant departure from accepted practices of the relevant research community; and
 - The misconduct was committed intentionally, knowingly or recklessly; and
 - The allegation is proven by a preponderance of the evidence.
- When allegations of research misconduct include allegations regarding students, fact finding into the allegations regarding students shall proceed in accordance with the procedures outlined in this Policy. The Provost may forward findings of fact related to misconduct of students to the Vice President of Student Life, in addition to sanctions determined by the Provost pursuant to this Policy and/or the University's Academic Honesty Policy.
- This Policy does not attempt to establish guidelines for the conduct of research, though researchers should be highly cognizant of their responsibilities to meet the highest standards in selecting collaborators, gathering, evaluating and reporting data, supervising junior colleagues, authoring publications, disclosing suspicions of misconduct, cooperating in any authorized inquiry or investigation, and maintaining the highest standards of ethical behavior

in the conduct of research and a general climate of intellectual honesty.

- Neither the University nor the Respondent may have legal counsel present at the meetings of the Inquiry or Investigation Teams, except at the express invitation of the Teams (and any such invitation must be extended to both parties). When invited, legal counsel may observe but may not participate in the proceedings. With the prior approval of the Teams, the Respondent may be accompanied by a non-attorney colleague at meetings of the Teams (but such non-attorney colleague may observe but shall not participate in the meetings).

The Inquiry

- The Inquiry will be conducted in the following manner:
 - The Chief Compliance Officer and at least one other person appointed by the Provost constitute the Inquiry Team.
 - The Inquiry Team must be fair, objective and impartial and must possess, where required, the competence to understand the research in question.
 - The Inquiry Team will:
 - To the extent not previously implemented, obtain custody of, and sequester, all research records and evidence needed to conduct the research misconduct proceeding;
 - Confirm the provision of (or if necessary, provide) written notice of the Inquiry to the Respondent(s);
 - Not disclose the identities of the Complainant(s), the Respondent(s), the fact of the Inquiry and Team findings to anyone not having a need to know the information or except as necessary to carry out the Inquiry;
 - Make a determination as to whether or not an Investigation should be conducted, on the basis that (i) a reasonable basis exists for concluding that the allegation falls within the definition of research misconduct, and (ii) preliminary information-gathering and preliminary fact-finding indicate that the allegation may have substance;
 - Complete the Inquiry within sixty (60) calendar days of its initiation, unless circumstances warrant a longer period. If more than sixty (60) days is taken, the record must include documentation of the reasons for the extension of time. (Where a sponsoring agency requires a different time frame, the Inquiry Team will follow such agency's requirements);
 - Prepare a written report at the conclusion of Inquiry conformed to the requirements of PHS (or of another sponsoring agency, if applicable);
 - Provide the Respondent an opportunity to review and comment on the Inquiry report, and attach any comments received to the Report;
 - Provide a copy of the Inquiry report (including Respondent's comments, if any) to the Provost; and
- Where an Inquiry Team determines that an Investigation is warranted, notice will be provided to the Respondent (including a copy of the Inquiry report (with Respondent's comments), a copy of this Policy, and where applicable, reference to the PHS regulations, 42 CFR Part 93). Where applicable, the University will provide notice to PHS in accordance with PHS regulations.

The Investigation

- The Investigation will be conducted in the following manner:
 - Where the Provost determines to initiate an Investigation, the Provost shall provide written notice to the Respondent within a reasonable time following such determination, but before the Investigation begins, specifying the charges to be examined by the Investigation. The Provost also may provide notice to the Complainant, and to the Respondent's Dean and/or Department Chair, that the Provost has determined that an Investigation is warranted;
 - The Provost will appoint an Investigation Team consisting of at least three (3) persons, with a maximum of two (2) members from either the Respondent's or the Complainant's respective departments. The Team members must be fair, objective and impartial and must possess sufficient competence to understand the research in question, and should include one or more persons with expertise in the area in question (such experts may include persons outside the University). Any person having a conflict of interest with or prior involvement in, the substance of the Respondent's research will not be eligible for appointment to the Team. Additionally, the Compliance Officer will be an *ex officio* member of the Investigation Team for purposes of the administration of this Policy.
- In conducting the Investigation, the Team will:
 - Comply with the procedures, time frames and notices required by the PHS regulations, where applicable (or the requirements of another sponsoring agency, if applicable), and the following:
 - Consult with the Chief Compliance Officer as to the procedures and process for conducting the Investigation;
 - Make a diligent effort 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 the allegations;
 - Give the Respondent the opportunity to appear before the Team to be interviewed and to present information on his or her behalf;
 - Make a tape-recording of all interviews, provide a copy of the transcript to interviewees for review and correction and include a copy of all transcripts in the record of the Investigation;
 - Provide a draft of the Investigation report, concurrently with a copy of or supervised access to the evidence on which the report is based, to the Respondent with an opportunity for him or her to present comments on the draft report within thirty (30) days after the date Respondent received the draft report;
 - Determine the contents of the final Investigation report by majority vote on the basis of a preponderance of evidence (and consideration of Respondent's comments, if any, on the draft report, and include any such comments with the final report), and prepare the report in conformance with PHS regulations to the maximum extent applicable (or the requirements of another sponsoring agency, if applicable);
 - Provide the final Investigation report to the Provost, with the complete file and investigation record assembled by the Investigation Team;
 - Conduct the Investigation with all appropriate urgency and complete the

- Investigation within 120 calendar days of its beginning; and
- Submit a copy of the final Investigation Report to the Respondent by certified mail (with return receipt), or personal delivery (with signature to acknowledge delivery).
- The final Investigation Report will constitute the factual basis for any subsequent disciplinary proceedings against the Respondent.

Disciplinary Actions

- The Provost will review the final report of the Investigation Team.
- If the Provost accepts or concurs with a finding by the Investigation Team that a preponderance of evidence substantiates that the Respondent committed research misconduct, the Provost will:
 - Recommend sanctions against the Respondent including but not limited to dismissal, suspension, reprimand, limitation on grant submissions, or suspension or monitoring of research;
 - Report the outcome of the Investigation and submit recommendations of sanctions:
 - Regarding faculty to the President;
 - Regarding students to the Vice President of Student Life; and
 - Regarding non-faculty employees (and any other research personnel) to the appropriate Department Manager, or Vice President.
- If the Provost accepts or concurs with a finding by the Investigation Team that a preponderance of evidence does not substantiate that the Respondent committed any alleged instance of research misconduct, the Provost will, with respect to such allegations:
 - Make all reasonable efforts to protect or restore the reputation of the Respondent;
 - Determine if the allegations were made not in good faith, and if so, recommend appropriate sanctions against the Complainant(s).
- Additionally, where the Provost's review of the final Investigation report determines that additional analysis or fact-gathering by the Investigation Team is required, the Provost may return the Investigation report to the Team for further proceedings consistent with this Policy.
- In the case of any appeal by a non-faculty employee or a student with respect to a finding of a preponderance of evidence substantiating an allegation of research misconduct, or with respect to the imposition of any sanction based upon such a finding, the appeal will be decided by the President.
- In the case of any faculty member, any appeal with respect to a finding of a preponderance of evidence substantiating an allegation of research misconduct, or with respect to the imposition of any sanction by the President based upon such a finding, shall be presented to, and decided by, the Board of Trustees.
- Because of the technical nature of the facts and issues in these cases, the consideration of appeals by the President and Board of Trustees shall not include the presentation or consideration of any information or evidence that was not presented to the Investigation Team and the fact-finding set forth in the final Investigation report shall be conclusive. However, if the Respondent establishes

that there is newly discovered evidence that could reasonably and materially affect the outcome and which the Respondent could not have discovered and presented in the Investigation through reasonable diligence, the matter may be returned to the Investigation Team for further proceedings consistent with this Policy.

- The Provost will notify the Chief Compliance Officer, the editors of any affected journals and publications, and institutions, individuals and sponsoring agencies with which the individual has been affiliated, of the final outcome of the investigation and disciplinary decision.

Contacts:

- Dr. Robin Rylaarsdam, Acting Dean of the College of Science (630) 829-6532
- Dr. James E. Payne, Provost and Executive V.P. for Academic Affairs (630) 829-6243
- Nancy Stoecker, Chief Compliance Officer and Legal Counsel (630) 829-6402

Additional Resources:

- *Faculty Handbook*
- *Employee Handbook*
- *Student Handbook*
- **Benedictine University Conflict of Interest Policy**
- **Benedictine University Whistleblower Protection Policy**

Date of Issuance: June 8, 2010

Last Revised: September 11, 2017

Department Responsible: Academic Affairs