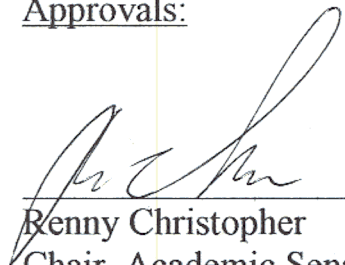


SENATE POLICY 3-31

**Motion: to approve the Policy on Misconduct in Research and
Creative Activity**

Passed at the May 4, 2004 meeting of the Academic Senate.

Approvals:



Renny Christopher
Chair, Academic Senate

5-12-04
Date



Richard Rush
President, CSU Channel Islands

5/13/04
Date



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Policy on Misconduct in Research and Creative Activity

MISCONDUCT IN RESEARCH AND CREATIVE ACTIVITY

Purpose: This policy is a policy for investigating and reporting instances of alleged or apparent misconduct in research and creative activity. This policy is also intended to conform to the requirements of the United States Department of Health and Human Services ("HHS"), the U.S. Public Health Service ("PHS"), the National Science Foundation ("NSF") and Federal regulations including, but not limited to, the "Responsibilities of Public Health Service Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science" [42 CFR (Code of Federal Regulations) Part 50, Subpart A] and the "National Science Foundation regulations on Misconduct in Science and Engineering Research" [45 CFR, Part 689.]

Background: This is a new policy.

Accountability:

Applicability: This policy applies to all university faculty, staff and students.

Policy:

I. Purpose

It is the policy of California State University Channel Islands to adhere to and promote the highest standards of conduct in research and creative activity. Therefore it issues this policy for investigating and reporting instances of alleged or apparent misconduct in research and creative activity. This policy is also intended to conform to the requirements of the United States Department of Health and Human Services ("HHS"), the U.S. Public Health Service ("PHS"), the National Science Foundation ("NSF") and Federal regulations including, but not limited to, the "Responsibilities of Public Health Service Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science" [42 CFR (Code of Federal Regulations) Part 50, Subpart A] and the "National Science Foundation regulations on Misconduct in Science and Engineering Research" [45 CFR, Part 689.]

II. Definition

"Misconduct" or "misconduct in scientific research" is defined as it is in 42 CFR, Part 50, Subpart A, sec. 50.102 to mean: fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the academic community for proposing, conducting, or reporting research and creative activity. Misconduct does not

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include honest error or honest differences in interpretations of data. In accordance with 45



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CFR, Part 689, sec. 689.1 these terms shall also include retaliation of any kind against an individual who in good faith reported or provided information about suspected or alleged misconduct.

III. Responsibility

The Associate Vice President for Research and Sponsored Programs shall be responsible for (1) filing required annual assurances with agencies funding research as well as aggregated information on allegations, inquiries, and investigations, (2) informing and cooperating with funding agencies as set forth below, or as otherwise required by law, (3) maintaining appropriate policies and procedures relating to procedures and the importance of compliance with these policies and procedures, (4) informing University faculty and administrative staff of these policies, (5) taking immediate and appropriate action as soon as misconduct on the part of employees or individuals within the University's control is suspected or alleged, and (6) directing the maintenance of and access to documents, evidence, reports, and any other materials generated in the course of or due to an allegation, inquiry, or investigation of misconduct. On behalf of the University, the Associate Vice President for Research and Sponsored Programs shall also be responsible for notifying the United States Office of Scientific Integrity ("OSI") and the NSF if it is ascertained at any stage of an inquiry or investigation that any of the following conditions exist:

1. There is an immediate health hazard involved.
2. There is an immediate need to protect Federal funds or equipment.
3. There is an immediate need to protect the interests of the individual making the allegations or of the individual who is the subject of the allegations as well as his/her co-investigators and associates, if any.
4. It is probable that the alleged incident is going to be reported publicly.
5. There is a reasonable indication of possible criminal violation. In this instance the University will inform the OSI within 24 hours of obtaining that information [42 CFR, Part 50, section 50.104], and will provide funding agencies with interim reports as required by law or upon request.

IV. Allegations of Misconduct in Research

Any individual who believes an act of misconduct has occurred or is occurring should notify the dean of the appropriate department. Upon receipt of an allegation of misconduct in research or creative activity the department dean shall inform the Associate Vice President for Faculty Affairs, the Associate Vice President for Research and Sponsored Programs, the

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Provost, the individual or individuals against whom the allegation has been made, and all



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appropriate agencies or law enforcement authorities. The department dean shall reduce to writing any oral allegation of misconduct and seek approval as to its content from the individual making the allegation. A copy of the written allegation together with a copy of this policy statement should be made available to the individual against whom an allegation is asserted. That individual shall have 15 working days from the time of notification that an allegation has been received to prepare a formal written response.

V. The Inquiry

Upon receipt of an allegation of misconduct, the appropriate dean shall immediately begin an inquiry into the allegation. The inquiry must include gathering information and initial fact finding to determine whether an allegation or apparent instance of misconduct warrants an investigation. The inquiry may be conducted by the department dean, a qualified panel or committee, or by such other arrangements that have the approval of the Associate Vice President for Research and Sponsored Programs.

The inquiry and submission of the inquiry report must be completed within 60 days of its initiation unless circumstances clearly warrant a longer period.

A written inquiry report shall be prepared that states the substance of the allegation, describes the evidence that was reviewed, summarizes relevant interviews (in most cases to include the individual who raised the allegation), and sets forth conclusions of the inquiry, especially whether there is sufficient reason to conduct a formal investigation.

The individual against whom the allegation was made shall be given a copy of the report of inquiry and invited to comment upon it. If a written comment to the report is submitted in a timely manner, the comment shall be made a part of the final inquiry report. If the inquiry takes longer than 60 days to complete, the record of the inquiry shall include documentation of the reason for exceeding the 60-day period.

The final inquiry report shall be provided to the Associate Vice President for Research and Sponsored Programs for review, who will report the findings to the Associate Vice President for Faculty Affairs, and to the Provost. If in the opinion of the Associate Vice President for Research and Sponsored Programs the inquiry is not satisfactory in its information gathering or fact finding, additional inquiry may be requested. If the inquiry is considered satisfactory and reaches the conclusion that a more formal investigation is not warranted, that decision is final. Sufficiently detailed documentation of the inquiry, to permit a later assessment of the reasons for determining that an investigation was not warranted, shall be maintained for a period of at least three years after the termination of the inquiry and shall, upon request, be provided to the HHS, or others as required by law.

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VI. Investigation Following Inquiry

If the inquiry results in a recommendation for a more formal investigation it should be guided by the considerations set forth below. If the research at issue involves funds from the PHS or NSF, on or before the commencement of the investigation, the University will notify in writing the OSI, and NSF of the pending investigation. In the case of PHS-funded research this notice must include the name of the accused individual, the specific nature of the allegation, and the PHS proposal or award number involved. The Associate Vice President for Research and Sponsored Programs will keep the appropriate funding agencies informed during the investigation, and specifically apprise OSI of any developments during the course of the investigation which disclose facts that may affect current or potential HHS funding for the individual under investigation or that the PHS needs to know to ensure appropriate use of Federal funds or otherwise protect the public interest.

A. Thirty days to begin investigation

An investigation is the formal examination and evaluation of all relevant facts to determine if misconduct has occurred. An investigation following inquiry must be undertaken within 30 days of the completion of the inquiry. It will normally include examination of all documentation, including but not limited to, relevant research data and proposals, publications, correspondence, and memoranda of telephone calls. Whenever possible all individuals involved in either making the allegation or against whom the allegation is made should be interviewed, as well as other individuals who might have information regarding key aspects of the allegation. Summaries of interviews should be prepared and provided to the interviewees for comment or revision, and these comments should be included as part of the investigation report. The individual who raised the allegation should be given a copy of the portions of the report that address their role and opinions and invited to comment upon it. If a written comment to the report is submitted in a timely manner, the comment shall be made a part of the final investigation report.

B. Ninety days to complete investigation report

The investigation report should be completed within 90 days of initiation of the investigation to allow time for a determination of sanctions, if any, and finalization of the report within 120 days. Within 90 days of initiation of the investigation, the investigation report should be submitted to the Associate Vice President for Research and Sponsored Programs and a copy provided to the individual investigated. Such individual may submit a written response to the report within 20 days of receipt, or longer at the discretion of the Associate Vice President for Research and Sponsored Programs. The written response shall be appended to the final investigation report. The Associate Vice President for Research and Sponsored

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Programs shall make recommendations for corrective measures and disciplinary action, if



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any, and report these to the Associate Vice President for Faculty Affairs and to the Provost. Any sanctions taken by the University as a result of the allegation of misconduct shall be included in the final report.

C. OSI investigation deadlines and reporting requirements

The investigation ordinarily should be completed and the final report submitted to the OSI within 120 days of its initiation. If the investigation cannot be completed within 120 days, the University will submit to the OSI a written request for an extension together with an explanation for the delay, an interim report on the progress to date, and an estimate for the date of completion. If the request for an extension is granted, the University will file periodic progress reports if requested by the OSI. NSF may require submission of periodic status reports if the investigation is not concluded within 180 days. The final report will meet the OSI requirements of describing the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings, and include the actual text or an accurate summary of the views of any individual found to have engaged in misconduct, as well as a description of any sanctions taken by the University.

D. Copy of final report to PHS and NSF

The PHS and NSF will be notified of the final outcome of an investigation involving their funded project(s), and provided with a complete copy of the final report.

VII. Provisions Applicable to Inquiries, Investigations, and Reporting

The University will protect, to the maximum extent possible, the privacy of all individuals involved including those who in good faith report apparent misconduct, those accused of misconduct, and those who provide information or documentation in connection with inquiries, investigations or reporting. The University will afford the affected individual confidential treatment to the maximum extent possible, a prompt and thorough investigation, and an opportunity to comment on allegations and findings of the inquiry and/or the investigation. The University will undertake diligent efforts as appropriate to restore the reputations of individuals alleged to have engaged in misconduct when allegations are not confirmed, and also undertake diligent efforts to protect the positions and reputations of those individuals who, in good faith, make allegations. The University will take care to avoid that any individual with a real or apparent conflict of interest does not participate in an inquiry or investigation. Whenever necessary and appropriate to insure a thorough and authoritative evaluation of all the evidence during an inquiry or investigation individuals with special expertise will be consulted. The University will notify the PHS and the NSF, where applicable, of any decision to terminate an inquiry or investigation before completion of the

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process outlined here or required by law. The notice will include the reasons for such early



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termination. The procedural requirements of funding agencies do vary, and the investigating body is cautioned to review the current legal requirements at the time of any inquiry or investigation under this policy.

VIII. Miscellaneous

An inquiry or investigation report is a summary of the facts discovered and an opinion regarding these facts. As such it is a University document and its authors are protected in the same way as other University employees are protected when they render formal opinions regarding the competence and fitness for service of other University employees. When the findings of an inquiry report which does not require a subsequent investigation, or the findings of an investigation report implicate an employee of the University in misconduct in research or creative activity, the Associate Vice President for Research and Sponsored Programs may recommend the initiation of disciplinary proceedings against such an individual. The disciplinary proceeding shall be in accordance with the provisions of relevant CSU and campus regulations and Memorandum of Understanding with faculty and staff bargaining units. This policy is effective immediately upon issuance.