

Research Integrity Policy

Responding to Allegations of Scholarly Misconduct

Loyola Marymount University

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Specific Federal Regulations and Policies

Public Health Service (PHS)

Public Health Service Act, as amended, Code of Federal Regulations, 42 CFR Part 50 -- Policies of General Applicability; Subpart A -- Responsibility of PHS Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science.

Authority: Sec. 493, Public Health Service Act, as amended, 99 Stat. 874-875 (42 U.S.C. 289b); Sec. 501(f), Public Health Service Act, as amended, 102 Stat. 4213 (42 U.S.C. 290aa(f)).

U.S. Department of Health & Human Services (HHS) / Office of Research Integrity (ORI)

Policy on Instruction in the Responsible Conduct of Research (RCR).

I. Principle

In keeping with the primacy of the search for truth in Jesuit education, Loyola Marymount University (LMU) is committed to maintaining a scholarly environment that promotes the highest ethical standards in the conduct of research and any creative activity. The University does not tolerate misconduct in any aspect of research or creative activity and will inquire into and, if necessary, investigate and resolve promptly and fairly all instances of alleged misconduct in accordance with academic due process and with respect for commonly accepted best practices within the scholarly community.

Federal regulations require that institutions applying for or receiving Federal sponsored research funding have an established administrative process for reviewing, investigating and reporting allegations of research misconduct [40 CFR Part 50]. This policy outlines Loyola Marymount University's administrative process in response to an allegation of research misconduct in all areas of research and creative activity, regardless of the funding source.

A. Scope

This document formally establishes a uniform policy and procedures for reporting and thoroughly and fairly investigating all instances of alleged or apparent misconduct involving research or creative activity by members of the Loyola Marymount University community regardless of the funding source. This policy applies to all LMU employees.

This policy excludes fiscal improprieties, issues concerning the ethical treatment of human and animal subjects, and sexual harassment or discrimination. Other policies address these issues.

II. Background

The Federal government has developed regulations for investigating and reporting allegations of misconduct.

Both the Federal regulations were developed as a result of congressional and public pressure to assure that award recipients and the agencies had procedures in place to deal with misconduct allegations.

On December 6, 2000, the Federal government defined research misconduct as “fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results,” and issued a wide-ranging policy for research misconduct. The policy applies to Federally funded research and proposals submitted to Federal agencies for research funding.

III. Definitions

A. Agency or Foundation Support

Agency or Foundation support means grants, contracts, or cooperative agreements or applications therefore.

B. Allegation of Misconduct

Allegation means any written or oral statement or other indication of possible research misconduct made to an institutional official.

C. “Bad Faith” Allegations of Research Misconduct

Allegations in “bad faith” include those that are knowingly false, capricious, motivated by malice, or intentionally dishonest or made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

D. “Good Faith” Allegation of Research Misconduct

“Good faith” allegation means an allegation made with the honest belief that research misconduct may have occurred.

E. Committee on Research Integrity (CRI)

The Committee on Research Integrity, chaired by the Research Integrity Officer, is a standing committee of six tenured faculty member appointees, one from each of LMU’s four colleges and two schools.

F. Complainant

The complainant is the source of the allegation and the individual who makes a complaint of research misconduct against a faculty member or LMU employee. This individual may also be referred to as the whistleblower.

G. Inquiry

▪ Preliminary Inquiry

Preliminary Inquiry means gathering information and initial fact-finding to determine whether an allegation or apparent instance of research misconduct warrants an investigation. More specifically, as used in this policy, it also refers to the AVP’s preliminary examination of the evidence in his/her decision to proceed with the Formal Inquiry.

- **Formal Inquiry**

Formal Inquiry means the formal examination and evaluation of all relevant facts by the Committee on Research Integrity to determine if misconduct has occurred, and, if so, to determine the responsible person and the seriousness of the misconduct.

H. ORI

ORI means the Office of Research Integrity, the Federal office within the Department of Health & Human Services that is responsible for research misconduct and research integrity services.

I. Research

Research includes all basic, applied, and demonstration research, including but not limited to all fields of science, engineering, mathematics, humanities, arts, and the social sciences.

J. Research Integrity Officer

The Research Integrity Officer, who is appointed by the AVP and chairs the Committee on Research Integrity, is the LMU official responsible for assessing allegations of research misconduct, determining when such allegations warrant inquiries, and for overseeing inquiries.

K. Research Integrity Policy

Research Integrity Policy means the LMU regulation establishing standards for institutional inquiries and investigations into allegations of research misconduct.

L. Research Misconduct

Research Misconduct is defined as a knowing fabrication, falsification, plagiarism or other practice that seriously deviates from those commonly accepted within the scholarly community for proposing, performing, or reviewing research, or in reporting results. It does not include honest error or differences of opinion or differences in interpretations of data.

- **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** (misrepresentation of data) is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- **Abuse of Confidentiality** includes the expropriation or abuse of ideas, data, and/or inappropriate dissemination of personally identifying human subject data.

One of the following must be proven to establish a finding of research misconduct:

- A significant departure from accepted practices of the scholarly community for maintaining the integrity of the research record;
- The misconduct has been committed intentionally, or knowingly, or in reckless disregard of accepted practices; and
- The allegation can be proven by a preponderance of evidence.

Disciplinary action based on a finding of research misconduct will take into account the seriousness of the misconduct, including but not limited to:

- The degree to which the misconduct was knowing, intentional, or reckless;
- Whether it was an isolated event or reflective of a pattern of behavior; or
- If it had significant impact on the research record, research subjects, other researchers, institutions, or the public welfare.

M. Whistleblower

Whistleblower is the term used by the Federal government to refer to a person who makes an allegation of research misconduct.

IV. Responsibilities

A. Community Responsibilities

Each member of the Loyola Marymount University community is responsible for reporting what they believe to be misconduct by faculty, research personnel (including temporary or adjunct members of the research staff), and students. Anyone who believes that a member of the LMU community has engaged in an activity that could be construed as research misconduct should report the matter in writing, if possible, to the Dean of their college or school.

The University expects that all members of the LMU community will cooperate with the individuals directing any proceeding pursuant to these guidelines, and will provide any and all information requested by a person charged under these guidelines with the responsibility of investigating an allegation of research misconduct.

B. Responsibilities of Persons Engaged in Research Activities

All personnel performing research of any type are responsible for maintaining the highest ethical standards in their research.

1. Responsibilities of Persons In Supervisory Positions

Principal Investigators are responsible for (1) assuring that these standards are communicated to and followed by all who work under their supervision, directly or indirectly; (2) assuring the validity of all information communicated by their research groups; and (3) assuring adequate citation of contributions from those within and without each research group.

2. Responsibilities of Persons Who Collaborate on Research Projects

Co-authorship should reflect involvement and responsibility for work reported. Although collaborative research relationships are based on trust, some joint evaluation of data should be an integral part of the review process, even in long-distance collaborations.

C. Responsibilities of Administrators

The Academic Vice President (the "AVP") and the Dean are charged with ensuring the implementation of these guidelines and assuring the integrity of research at Loyola Marymount University. They will disseminate the guidelines, and, when an allegation of misconduct is made, they will assure that the appropriate review procedures are undertaken promptly.

D. Responsibilities of Persons Involved in the Allegation or the Review of Research Misconduct

Confidentiality. To protect the reputation and professional and institutional standing of individuals against whom misconduct is alleged, persons who participate in any way in the filing of an allegation under these guidelines shall maintain all information about the matter in absolute confidence. Unless the subject matter being discussed is public knowledge, such persons should only discuss the matter in the context of the procedures detailed in these guidelines. Any inquiries about the matter from the press and other persons both inside and outside the LMU community should be directed to the AVP.

Persons participating in the review of an allegation of research misconduct shall also protect, to the maximum extent possible, the privacy of those who in good faith report suspected research misconduct. The identity of the person who reports suspected research misconduct will not be released to persons other than those specified in these guidelines unless maintaining such anonymity would seriously undermine the integrity and efficacy of the inquiry or investigation.

Conflict of Interest. Prior to participation in any aspect of an inquiry or investigation, a person who will be involved in any capacity will disclose to the Dean in writing the existence of (a) a conflict of interest, or (b) any facts which might cause him or her to be perceived to be biased concerning the facts of the allegation. No person who has a bias or conflict of interest or the appearance of a bias or a conflict of interest shall serve as a member of an ad hoc committee established under Section V2(d) of these guidelines or of the Committee on Misconduct in Research established under Section V3(b) of these guidelines. The Dean will be responsible for determining how to deal with conflicts of interest within the context of the proceeding.

For the purpose of this Policy, a person is understood to be involved in filing or reviewing an allegation of research misconduct if he or she makes an allegation, is the subject of an allegation, is a witness, Dean, Director, member of a committee or is in any way informed of or consulted concerning the allegation. It is intended that this provision be read as broadly as possible.

Retaliation. Neither the person alleged to have committed research misconduct nor any other member of the LMU community will retaliate in any way against a person who reports suspected research misconduct.

V. Process

A. General

Throughout the process, Loyola Marymount University will:

1. Protect to the extent possible the privacy of those who report apparent misconduct;
2. Afford the subject(s) of an allegation a prompt inquiry, confidential treatment, protection of their rights, and assurance of due process.
3. Take appropriate action against those who make allegations of research misconduct in bad faith;
4. Discipline any member of the University Community who retaliates against someone who makes allegations of research misconduct.

Throughout the process, the subject of the allegation has an obligation to:

1. Provide data, records, and other documents that they have in their possession, have access to or knowledge of, as requested by the University to ensure a fair and thorough review;
2. Cooperate fully with the Preliminary and Formal Inquiry(ies).

B. Receipt of an Allegation

1. Contents of Allegation

Allegations of research misconduct should include a detailed description of the alleged misconduct, the individual(s) who is(are) the subject(s) of the allegation, and supporting evidence or documentation.

2. Reporting

Reports of alleged research misconduct are to be delivered to the appropriate Dean in person or in a sealed enveloped marked "CONFIDENTIAL." The Dean will make a preliminary evaluation of the alleged misconduct and determine whether it merits further action. In performing this evaluation, the Dean may consult in confidence with others as appropriate.

3. Non-credible Allegation

If the Dean concludes that the allegation is not credible, the allegation will be closed and dismissed without further proceeding. If the matter is dismissed at this juncture, no record of it will be maintained other than a sealed written report stating the reasons for the dismissal. This sealed record shall be maintained in strict confidence by the Dean's Office for a period of at least three years. It is not to be noted in any personnel or other records of the subject of the allegation OR the complainant.

4. Notification of non-action

The Dean will notify the complainant in writing of the determination that the allegation was determined to be not credible. The complainant may at this point appeal this determination to the Academic Vice President.

5. Notification of the Director and AVP

Upon receipt of a credible report of possible research misconduct, the Dean will immediately inform the Academic Vice President of the substance of the allegation(s).

6. Preliminary Inquiry

The Academic Vice President will determine whether the allegation a) falls within the scope of this policy and recommend that a formal inquiry be carried out, or b) falls outside the scope of this policy and, therefore, no further action is to be taken.

C. Research Integrity Committee and Chair

The AVP will appoint a standing committee of six tenured faculty members to be known as the LMU **Committee on Research Integrity** (CRI). Appointments of the six members will be for staggered three-year terms, which may be renewable.

From among the members of the CRI, the AVP will appoint the Chair of the CRI, who will maintain the integrity of the process, ensure its confidentiality, and ensure that necessary and appropriate expertise is secured to carry out a thorough and fair evaluation of the relevant evidence. The Research Integrity Chair will be an institutional official who is qualified to handle the procedural requirements involved and is sensitive to the varied demands made upon those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith.

D. Formal Inquiry

Should the Academic Vice President determine in a Preliminary Inquiry into the allegation that it falls within the scope of this policy, he/she will refer the matter to the Chair of the Committee on Research Integrity for a Formal Inquiry.

The CRI will complete its Formal Inquiry within 90 days and a report of findings will be submitted to the AVP.

1. Discussion with Subject

The Dean or his/her designee will meet with the subject of the allegation to notify the subject of the charges and the University process for inquiring into and investigating the allegation(s). The subject(s) of the allegation(s) will receive timely written notification from the Dean regarding substantive allegations against them and a description of all such allegations.

2. Formal Inquiry Process

If the CRI decides to recommend a finding of misconduct, it should also make recommendations concerning:

- (a) The seriousness of the misconduct, including (but not limited to) consideration of the degree to which the misconduct was intentional or reckless;
- (b) Whether it was an isolated event or part of a pattern; or
- (c) Whether it had significant impact on the research record, research subjects, other researchers, institutions, or the public welfare.

The Formal Inquiry will examine all available relevant documentation, including but not limited to research data and proposals, publications, written and electronic correspondence, and memoranda of telephone calls. The Committee should interview any individuals with relevant information, including both the individual(s) who raised the allegation(s) and the subject of the allegations, if possible.

Complete summaries of the interviews should be prepared and, upon request, be provided to the interviewed person for comment or revision. Summaries and comments by the interviewed persons should be included as part of the Formal Inquiry file. The Committee will be expected to pursue its work diligently, carrying it through to completion, and identify whether the allegation(s) were made in good faith.

3. Formal Inquiry Report

The CRI will prepare a written report of its recommended findings for the AVP. The final report will describe:

- (a) Policies and procedures under which the Formal Inquiry was conducted,
- (b) How and from where relevant information was obtained,
- (c) Recommended findings and the basis for those recommendations,
- (d) The actual text or an accurate summary of the views of any individual found to have engaged in misconduct,
- (e) A description of any recommended sanction, and
- (f) An assessment as to whether the allegations were made in good faith.

4. Right of Comment by the Subject of the Allegation

The subject of the allegation of research misconduct will be notified of the finding(s) and shall be provided with a copy of the Committee's Report. The subject will be encouraged to respond to the finding(s) in writing and will be given 14 calendar days to respond. The subject's comments will be included in their entirety in the text of the CRI's final report.

5. Completion of the Formal Inquiry

Completion of the Inquiry includes preparing the report of findings, and obtaining comments within ninety (90) calendar days.

If the University plans to terminate a Formal Inquiry for any reason without completing all relevant requirements under this policy, and Federal agency support is involved, the AVP will report the termination to the appropriate government agency (or agencies).

The Office of the AVP will secure all of the records for a period not less than three years after termination of the Formal Inquiry.

6. AVP Determination

The Chair of the CRI will forward the finding in a Committee report to the AVP. The Committee's report is only a recommendation to the AVP. The AVP will complete the investigation by determining whether or not to affirm the recommendation(s) by the Committee, or to take different action.

E. Resolution

Resolution of the Formal Inquiry by the AVP may involve a finding that either the allegation(s) of misconduct cannot be substantiated or further action is necessary, and that either formal proceedings for dismissal should commence or other sanctions applied.

1. Formal Actions and Proceedings for Research Misconduct

a) Faculty

In the case of a faculty member with tenure or whose contract or appointment has not expired, if the AVP determines that formal proceedings for dismissal should commence, the AVP will make a formal statement of charges. Dismissal is defined in the LMU Faculty Handbook [Section V, N, 3.] The faculty member may appeal to the Grievance Committee or to the Board of Review [LMU Faculty Handbook, Section V, Q, 3 and 4]. The President will retain ultimate decision-making authority and the discretion to accept or reject recommendations.

b) Staff or Other Non-Faculty Employee

In the case of a staff member or other nonfaculty employee whom the AVP finds following the Formal Inquiry to have committed research misconduct, the AVP will take appropriate disciplinary action, up to and including termination. When notified of the disciplinary action, a non-faculty employee may file a written appeal with the AVP before two weeks have elapsed. The AVP must respond to the appeal, generally within one month of receipt and must notify the appellant of his/her decision.

c) Upon Failure to Find Misconduct

Following a Formal Inquiry, if the AVP determines that there has been a failure to substantiate an allegation of research misconduct, the University will make appropriate and reasonable efforts to protect the reputations of the persons alleged to have engaged in the misconduct.

d) Bad Faith Allegation

If the CRI or the AVP determines that the allegations were made in bad faith, the University, following institutional policies, will seek appropriate remedial action against the complainant, which may include suspension or termination of a University employee, as well as criminal and/or civil legal action.

e) Privacy

In all cases, the University will undertake reasonable efforts to protect the positions and reputations of those persons who, in good faith, make allegations, submit evidence, or otherwise participate in the process.

VI. Reporting

A. Notification

When Loyola Marymount University receives an allegation of research misconduct that involves Federally funded research (or an application for Federal funding) the Academic Vice President will summarize the Formal Inquiry findings, the disciplinary action, if any, and submit a report to the relevant agency or agencies.

If it is necessary to notify the appropriate government agency of a finding of research misconduct, all other funding sources including Foundation support of the same scholarly activity that is the subject of the Formal Inquiry will notified.

1. Reasons for Immediate Notification

The AVP will notify the appropriate government agency immediately if he/she ascertains upon completion of the Formal Inquiry that any of the following conditions exist:

1. There is a risk to public health or safety;
2. Federal funds or equipment are in jeopardy;
3. Research activities should be suspended;
4. Possible violation of civil or criminal law is indicated;
5. Federal action is needed to protect the interests of those involved in the inquiry;
6. A likelihood exists that the alleged incident will be reported prematurely to the public, requiring appropriate steps to safeguard evidence and protect the rights of those involved; or
7. The research community or public should be informed.

B. Final Reporting

The final report submitted by the AVP to the government will describe:

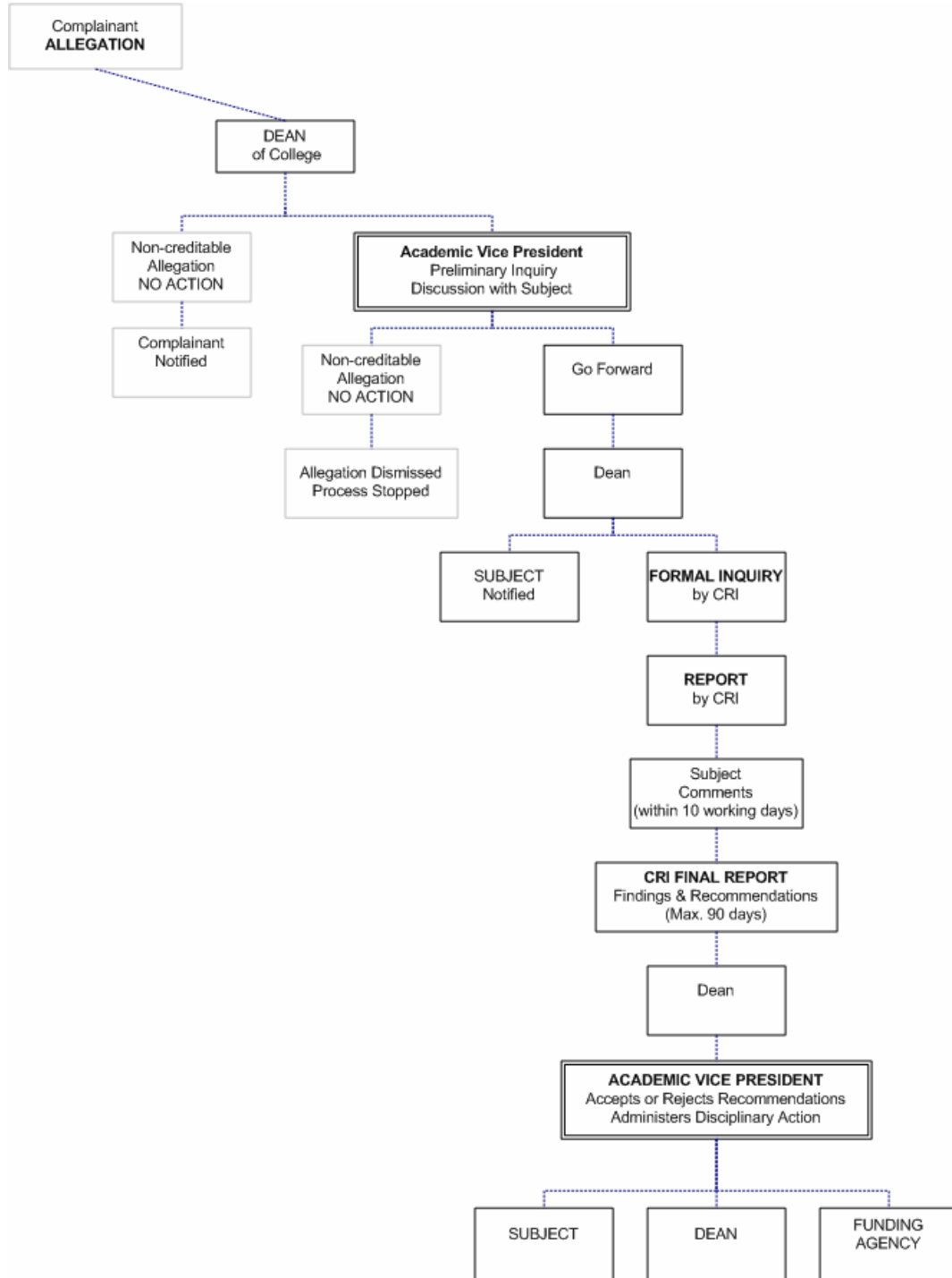
1. The policies and procedures under which the investigation was conducted,
2. How and from whom relevant information was obtained,
3. The findings and the basis for the findings,

4. The actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, and
5. A description of any sanctions applied by the University.

C. Additional Sanctions

The relevant Federal agency has the right under Federal regulations to impose additional sanctions beyond those applied by the institution, upon investigators or institutions if they deem such action appropriate in situations involving funding from their respective agency.

VII. Critical Path: Response to Allegation of Scholarly Misconduct



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