



XAVIER UNIVERSITY
Misconduct in Scholarship/ Research Policy

Effective: 5/9/16

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Responsible University Office: Misconduct in Scholarship/Research

Responsible Executive: Associate Provost for Academic Affairs

Scope: This document formally establishes a policy and procedures for reporting and investigating all instances of alleged or apparent misconduct involving research or creative activity by members of the Xavier University community. The Xavier community may include administrators, faculty, staff, graduate students, undergraduate students, researchers, fellows, volunteers, and contractors, subcontractors, sub-awardees, and their employees.

A. REASON FOR POLICY

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. [Public Health Service Policies on Research Misconduct \[42 CFR Part 93\]](#) and [NSF's Research Misconduct Policy \[45CFR 689\]](#). 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.

B. POLICY

The Misconduct in Scholarship/Research Policy establishes procedures to resolve allegations of misconduct in scholarship involving “Community members” (as defined below) that are within the scope of the policy.

The following must be proven to APAA and Faculty Hearing Committee 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.

C. DEFINITIONS/GENERAL PRINCIPLES

Definitions:

Research misconduct- means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

- (a) Fabrication is making up data or results and recording or reporting them.
- (b) 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.
- (c) Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- (d) Research misconduct does not include honest error or differences of opinion.

Preliminary Inquiry- means an initial review of the evidence to determine whether to conduct a Formal Investigation. A Preliminary Inquiry does not require a full review of all of the evidence related to the allegation.

Formal Investigation- means the formal development of a factual record and the examination of that record leading to a decision not to make a finding of Misconduct or to a recommendation for a finding of Misconduct which may include a recommendation for other appropriate actions.

Respondent- means the person against whom an allegation of Misconduct is directed.

Complainant- means a person who in good faith makes an allegation of Misconduct. This individual may also be referred to as a whistleblower.

Community Members- may include administrators, faculty, staff, graduate and undergraduate students, researchers, fellows, volunteers, and contractors, subcontractors, sub-awardees, and their employees.

Graduate students and undergraduate students- may become involved in misconduct allegations by virtue of their collaboration with faculty researchers. If the students are being supported by external funding, they are covered by this policy statement. If the students are not being supported by external funding, then such cases would follow the standard student misconduct policy and procedures.

General Principles:

1. **Duty to Report:** Any person who has reason to believe that a Community Member is engaging or has engaged in Misconduct should report that belief to the Associate Provost for Academic Affairs (APAA) or be made through the [Anonymous Hotline](#), which is available through a secure link from Xavier's Audit and Risk Management website.
2. **Protection from Bad Faith Allegations:** Reports made with knowing or reckless disregard for the truth, that are deliberately false, or that are influenced by personal, professional or financial

conflicts of interest are not considered to be made in good faith. Reports not made in good faith may become the basis of Misconduct proceedings themselves. In such cases, the procedures set forth in this Policy will be followed in the same manner against the individual(s) making the original allegations.

3. **Protection from Retaliation:** No retaliation shall occur against individuals who in good faith report suspected instances of Misconduct or participate in the procedures set forth in this Policy, regardless of the outcome of the Preliminary Inquiry and/or Formal Investigation.
4. **Confidentiality:** Every reasonable effort shall be made to ensure confidentiality is maintained concerning all matters related to these proceedings, including the identity of respondents, complainants, and research subjects. Information shall be shared on a need to know basis.
5. **Compliance with Sponsor Regulations:** In cases of sponsored research, investigations will be conducted in accordance with applicable regulations or guidelines of the sponsor. The Associate Provost for Academic Affairs will be responsible for ensuring that the procedures conform to such requirements, including any reporting procedures required by law, regulations, or policy. Researchers should be aware that sponsors may investigate allegations, impose sanctions, and take other actions independent of Xavier University
6. **Right to Respond:** In the conduct of any proceedings related to an allegation of Misconduct, the respondent will be provided with notice of the allegations, a draft copy of any written report, and an opportunity to comment in writing before the report is finalized.
7. **Requirements for a Finding of Misconduct:** A finding of Misconduct requires that there be a significant departure from accepted practices of the relevant research community; that the Misconduct be committed intentionally, knowingly, or recklessly; and that the allegation be proven by a preponderance of the evidence.
8. **Restoration of Reputation:** Xavier University will make every effort to protect and restore the reputation of a respondent against whom no finding of Misconduct is made.
9. **Six-year Limitation:** Allegations of Misconduct must be made within six years of the date of the incident of Misconduct. However, this time limit may be extended by subsequent instances of republication, citation, or other use of the research record that is alleged to have been fabricated, falsified, or plagiarized. This time limit may also be waived by the APAA for good reason, such as if the alleged Misconduct may have a substantial adverse impact on the health or safety of the public.

D. PROCEDURES

Reports of Misconduct from within or outside of the University should be referred immediately to the Associate Provost for Academic Affairs (APAA).

1. Preliminary Inquiry

- a. Written and signed statements are preferred. If a verbal report is filed, the report will be documented by the APAA and verified by the complainant. Anonymous reports may be made through the [Anonymous Hotline](#), which is available through a secure link from

Xavier's Audit and Risk Management website.

- b. At any stage of these procedures, an allegation of Misconduct may be withdrawn by the complainant(s), or the respondent may acknowledge the Misconduct, or a settlement with the respondent may be reached. In such a case, the APAA will determine if the matter may be closed following consultation with any funder (s). If the matter is to be closed, both the complainant and respondent will be informed in writing within 14 days of that determination. If Misconduct has occurred, the APAA will determine the appropriate sanction as provided in section 3 of the procedures.
- c. The APAA will contact the individual against whom the allegation has been made (respondent) and the Xavier faculty member/employee directly responsible for supervising him or her. If the inquiry subsequently identifies additional respondents, they shall be notified in writing. The APAA will also notify the appropriate department chair and dean that a preliminary inquiry is being initiated. The APAA will secure all research records and evidence relating to the alleged misconduct at the time of the initial notification. The records and evidence will be inventoried, sequestered in a secure manner except in those cases where the research records or evidence encompass scientific instruments shared by a number of users. During the course of the investigation and at his/her own expense, the respondent may be advised by legal counsel, but legal counsel will not be permitted to participate in any investigation or hearings beyond providing advice to the respondent (i.e. no rights to examine witnesses or object).
- d. The APAA will conduct an inquiry of the alleged misconduct. The APAA will contact the Faculty Hearing Committee who will appoint at least three members of their committee (that have no conflict of interest) to serve with the APAA as the Preliminary Inquiry Committee. The group may solicit the advice of appropriate intramural and external consultants.
- e. When appropriate, the APAA shall also refer the alleged misconduct to a Grant Services Officer who shall make a recommendation of whether the alleged misconduct is "significant" in the sense that it deviates from sponsor or University guidelines. If the Grants Officer determines that it may constitute a significant deviation, he/she shall follow the reporting procedures required by law, agency guidelines, or University policy.
- f. The Preliminary Inquiry will be said to begin when the Preliminary Inquiry Committee receives instructions from the APAA at its first meeting. The Preliminary Inquiry Committee will complete the inquiry within 60 calendar days of its initiation unless circumstances warrant a longer period. This 60-day period includes preparing the Preliminary Inquiry draft report and giving the respondent at least seven days to comment on it in writing.
- g. The Preliminary Inquiry Committee will make a recommendation to the Dean as to whether or not the allegation warrants a Formal Investigation. A Formal Investigation is warranted if there is a reasonable basis for concluding that the allegation falls within the definition of misconduct and preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance. Should the Preliminary Inquiry Committee require additional time in order to perform its task, it must submit a request for an extension, in writing, to the appropriate Dean no less than 14 days prior to the conclusion of the 60-day period allotted for the Preliminary Inquiry.
- h. The final Preliminary Inquiry report shall be submitted to the appropriate Dean.

-The appropriate Dean may initiate a Formal Investigation or terminate the inquiry.

-The appropriate Dean will notify the respondent, the APAA and Grants Officer of his or her decision, in writing, within seven calendar days.

2. Formal Investigation

- a. Following receipt of the Preliminary Inquiry report, if the appropriate Dean determines that a Formal Investigation is warranted, responsibility for continuing the investigation will transfer to the Provost and Chief Academic Officer. The Provost shall notify the President that a Formal Investigation into alleged Misconduct has been initiated.
- b. Within 30 days of the completion of the Preliminary Inquiry, the Provost will convene a Formal Investigation committee comprised of the Preliminary Inquiry Committee plus two additional members assigned by the Faculty Hearing Committee.
- c. The Formal Investigation committee will perform an in-depth inquiry and confidential review of all evidence gathered from the Preliminary Inquiry. The committee shall gather additional information and testimony as it deems needed. The methods used will be determined by the committee and shall comply with any and all federal, state, and sponsor requirements.
- d. The Formal Investigation committee will submit to the Provost, no later than 120 days after its first meeting, a final written report indicating its findings based on its investigation. This report will indicate the facts of the investigation, make a determination based on the findings of the majority as to whether Misconduct occurred, as well as recommend appropriate sanctions or other actions, warranted.
 1. The respondent will be provided a copy of the draft written report before it is finalized. The respondent will be provided at least 14 days to make a written statement in response to the committee's findings. Any final modifications to the report must be made within 14 days after the receipt of the respondent's comments.
 2. The procedures described in this policy must be followed without omission or curtailment, except that deadlines may be extended for good cause as long as sponsor guidelines or applicable regulations are followed.

3. Final Actions After a Formal Investigation Has Taken Place

- a. Finding: No Misconduct occurred.

Should the Formal Investigation Committee's final report indicate that no Misconduct occurred, the Provost will discontinue all proceedings and notify the respondent and the appropriate Dean in writing within seven days of the findings. Every reasonable precaution will be taken to ensure the continuing confidentiality of the proceedings, restore the reputation of persons alleged to have engaged in Misconduct, and protect the positions and reputations of persons who have, in good faith, made allegations. These efforts will necessarily vary on a case by case, but because the reputation of Xavier University is inextricably tied to that of its faculty, students, and staff, ensuring that those who have been wrongfully accused are publically exonerated and visibly supported by the university is in the best interests of the university as a whole.

b. Finding: Misconduct occurred.

Should the Formal Investigation Committee's final report indicate that Misconduct occurred, the Provost will notify the respondent and the appropriate Dean in writing within seven days. In addition, the President will be notified verbally of the conclusions and will receive a copy of the committee's final report. If external funding is involved, the Provost will also provide a Grant Services Officer with a copy of the final report who will contact the funder immediately.

1. The Provost and Faculty Hearing Committee will determine appropriate sanctions commensurate with the nature and severity of the misconduct found to be involved and the respondents' history of prior violations, if any.
2. Potential sanctions include, but are not limited to:
 - a. Removal of individual (s) from the project(s) in question.
 - b. Withdrawl of pending manuscripts emanating from fraudulent research.
 - c. Notification to editors of journals in which suspect reports have appeared.
 - d. Termination of work on all sponsored projects.
 - e. Fines and/or restitution.
 - f. Formal letter of reprimand.
 - g. Reduction in salary or faculty rank.
 - h. Suspension or dismissal in accordance with University policies and procedures.

In the case of reductions in salary or rank, suspension, or termination of faculty, the procedures set forth for such actions in the Rank and Tenure Policy Statement and the Faculty Handbook will be followed.

A finding of Misconduct may be appealed by the respondent to the President within 15 days of receipt of the Committee's final report. The President shall render a decision on the appeal within 15 days.

4. Record Retention

All records pertinent to the allegation of Misconduct and any Preliminary Inquiry will be securely maintained by the APAA. Should the Preliminary Inquiry result in the initiation of a Formal Investigation, all pertinent records will be delivered to the APAA, who will maintain them throughout the period of the Formal Investigation. Upon the conclusion of the proceedings, the case file will be maintained by the APAA's office for seven years, as required by law.

At the conclusion of the required retention period, the APAA will determine the disposition of the file.

5. Cessation of Employment of Complainant or Respondent

If the respondent or complainant ceases employment with Xavier University for any reason, the investigation will continue to a conclusion in accordance with the above outlined procedures.

E. EXHIBITS (if applicable)

F. HISTORY -N/A

Other applicable policies and/or resources:

Resources used to create this policy include Misconduct in Scholarship Policies from Loyola University Maryland and John Carroll University (with their permission) and the sample policy from the U.S. Office of Research Integrity.