



MISCONDUCT IN RESEARCH

1. Purpose	1
2. Confidentiality	2
3. Applicability	2
4. Policy	3
5. Overview of Process	3
6. Background	3
7. Definitions	4
8. Responsibilities	5
9. Inquiry Procedures	7
10. Investigation Procedures	9
11. Findings and Outcomes	11
12. Appeal and Final Decision	12
13. Record Maintenance during Inquiry, Investigation, and Decision-making Processes	13
14. References	13

Attachment A, Timeline for Handling an
Allegation of Misconduct in Research

1. PURPOSE

The Smithsonian Institution (SI) fosters a research environment that promotes the responsible conduct of research.

Advances in all fields of research depend on the reliability of the research record, as do the benefits associated with them. This directive reflects the Smithsonian's commitment to the accuracy and reliability of the research record, as defined herein, and the process involved in its development. It sets forth the responsibility of SI for handling and reporting alleged or suspected misconduct (fabrication, falsification, or plagiarism in the creation and reporting of research results) in its scholarly endeavors, and ensures the rights and interests of research subjects and the public.

2. CONFIDENTIALITY

Appropriate safeguards of confidentiality for complainants and respondents will be provided during the process.

To the extent permitted by law and regulation, the identity of an individual making an allegation of misconduct (the “complainant”) who wishes to remain anonymous will be kept confidential. In cases that depend on specific observations or statements by the complainant, the complainant’s identity may be disclosed.

To the maximum extent possible, the Institution will afford the researcher accused of misconduct (the “respondent”) confidential treatment, a prompt and thorough investigation, and an opportunity to comment on allegations and findings of the inquiry or investigation.

The confidentiality of any research subjects identifiable through the research records or evidence will also be maintained throughout the process.

3. APPLICABILITY

This directive applies to all research, research training, applications for support of research or research training, and related scholarly activities. This includes research carried out solely with SI resources or with the assistance of outside funding, whether the research is conducted on Smithsonian premises, in the field, or at another institution as a consequence of subgranting or subcontracting of an activity supported by SI.

This directive applies to SI employees, both federal and trust, as well as these categories of affiliated persons: contractors embedded with Smithsonian employees; volunteers; interns; Fellows; emeritus staff; and Smithsonian Early Enrichment Center (SEEC) employees. The following affiliated persons, who may be subject to policies of their home institution or agency, will be governed both by this directive and the policies of the home institution: visiting researchers, scientists, scholars, and students; research associates, regardless of working title; and federal agency or non-profit employees located at an SI facility.

This directive applies to all research funded by SI, including funding from federal appropriations, trust funds, endowments, or through funds raised from private external sources such as gifts, grants, or contracts. As defined in the *Federal Policy on Research Misconduct*, the term “research” as used in this directive includes all basic, applied, and demonstration research.

4. POLICY

The Smithsonian Institution shall adhere to the standards of integrity and the procedures described herein, and shall respond promptly to allegations or evidence of possible research misconduct, regardless of source of funding. This policy does not supersede and is not intended to offer an alternative to other Smithsonian policies, such as resolution of fiscal improprieties, animal use and care regulations, research involving human subjects, or criminal matters.

5. OVERVIEW OF PROCESS

The process for handling allegations of research misconduct is structured by funding agency regulations, and falls into two major phases: inquiry and investigation. An inquiry is conducted within the originating unit and is concluded within 60 calendar days of its initiation. An investigation, directed by senior management, may be deemed appropriate (see Sections 8 and 9), and is concluded within 90 calendar days of its initiation. At this time, a decision of misconduct or no misconduct is made by the Institutional Official (IO). Appeals of the decision by the respondent or the complainant may be made within 15 calendar days of the decision. If there is no appeal, the Institution may be required to file a report to federal agencies or other funding sponsors, if applicable, within 30 calendar days of the IO's decision. Appeals must be reviewed by the Secretary and a decision made within 120 calendar days of filing the appeal. Thus, the complete process can take up to one year (see Attachment A).

6. BACKGROUND

The U.S. Congress, federal funding agencies, and the scholarly community have an active interest in establishing professional best practices and ethical standards of research, and in preventing research fraud and wrongdoing. Agencies such as the Public Health Service (PHS) and National Science Foundation (NSF) have issued regulations detailing minimum requirements for reviewing and investigating allegations of misconduct in research and, in the case of the NSF, in other activities that it supports. (See PHS Regulations, codified at 42 *Code of Federal Regulations* [CFR], Part 93; NSF Regulations, 45 CFR Part 689.)

In addition, the *Federal Policy on Research Misconduct*, issued by the Office of Science and Technology Policy, and published in the December 6, 2000 *Federal Register*, 65 F.R. 76260–64, applies to funding received from all federal agencies.

The Smithsonian Institution is issuing this directive to set forth the Institution's responsibilities for handling and reporting alleged or suspected research misconduct, in order to comply with federal regulations.

7. DEFINITIONS

Research Misconduct: Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results. Research misconduct does not include honest error or differences of opinion. More specifically, it involves:

- **Fabrication:** Making up data or results and recording or reporting them;
- **Falsification:** Manipulating research materials, equipment, or processes, or changing or omitting data or results so that the research is not accurately represented in the research record; or
- **Plagiarism:** The appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

The Ad Hoc Inquiry Committee (AHIC): The body that conducts initial inquiries of allegations or complaints involving possible misconduct in research.

Adjudication: The review of recommendations and the determination of appropriate corrective actions.

Allegation: Notice to the Institution or a responsible official, either in writing or orally, that wrongdoing is suspected or is known to have occurred.

Complainant: The individual who in good faith makes the allegation of research misconduct.

Fields of Research: Research covered by this policy includes but is not limited to all basic, applied, and demonstration research in all fields of scholarly study, including science, art history, economics, education, history, linguistics, medicine, psychology, social sciences, and statistics. This policy also covers research involving human subjects or animals.

Finding of Research Misconduct: A finding of research misconduct requires that all three of the following elements are present:

- There is a significant departure from accepted practices of the relevant research community (i.e., the humanities, social sciences, or scientific research community);
- The misconduct is committed intentionally, or knowingly, or recklessly; and
- The allegation is proven by a preponderance of evidence (as defined below).

Inquiry: The assessment of whether the allegation has substance and if an investigation is warranted.

7. DEFINITIONS (continued)

Investigation: The formal development of a factual record, and the examination of that record leading to dismissal of the case or to a recommendation for a finding of research misconduct or for other appropriate remedies.

The Investigative Body: The body appointed by the Research Integrity Officer, which conducts the investigation, reports findings, and determines whether misconduct occurred in a specific case.

Preponderance of Evidence: Proof by information that, compared with that opposing it, leads to the conclusion that an allegation is more probably true than not.

Research Record: The record of data or results that embody the facts resulting from scientific inquiry in any academic discipline. This includes but is not limited to research proposals, physical and electronic laboratory records, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.

Respondent: The individual against whom the allegation is brought.

8. RESPONSIBILITIES

The shared responsibilities for inquiry, investigation, and adjudication of allegations of research misconduct are outlined below.

The Institution bears primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of alleged research misconduct. The Institution will maintain and effectively communicate to staff appropriate policies and procedures regarding research misconduct. The Institution will take the action necessary to ensure the integrity of the research, as well as the rights and interests of research subjects and the public.

Smithsonian supervisors/advisors/sponsors are responsible for educating staff and ensuring that individuals officially affiliated with the Institution are aware of and comply with this directive.

The Office of Sponsored Projects (OSP) is responsible for preparing and submitting the *Annual Report on Misconduct in Research* to the Office of Research Integrity (ORI). The PHS regulation (42 CFR Part 93) requires that all institutions renew their research misconduct assurance by annually submitting a report to ORI on the allegations, inquiries, and investigations they handled related to PHS-funded or PHS-proposed research in the previous year and other matters related to the regulation. OSP is also responsible for informing the

8. RESPONSIBILITIES (continued)

Institutional Official and Research Integrity Officer of changes to federal misconduct regulations, and for revising Smithsonian policies relating to misconduct in research, as needed. In addition, OSP reminds staff in charge of sponsored projects of the need to comply with all policies regarding misconduct in research. OSP is responsible for notification of federal sponsors should any allegations be made, or inquiries or investigations undertaken, involving projects with federal sponsored projects funding. If, at any time, there is any reasonable indication of possible criminal violations, OSP will inform the Office of the Inspector General (OIG).

Individual staff working for or with the Institution on federally or privately funded research, research training, publication projects, or related activities are responsible for reporting suspected or actual misconduct to the applicable museum, research center, or office director (i.e., the “unit director”).

Unit directors or their designees are responsible for informing unit staff and affiliated persons about the process for misconduct allegations, and for ensuring that these persons comply with this directive. If an allegation involves sponsored projects funding, the unit director will notify OSP when an allegation is received. The unit director will appoint the AHIC and ensure that its members have the necessary expertise to carry out a thorough and authoritative evaluation of relevant evidence in an inquiry, while taking precautions against actual or apparent conflicts of interest on the part of those involved. Unit directors will inform the Research Integrity Officer, the respondent, and the complainant in writing before an inquiry begins.

The AHIC conducts initial inquiries of allegations or complaints involving possible misconduct. If, at any time, there is any reasonable indication of possible criminal violations, the AHIC will inform the OIG.

The Investigative Body appointed by the Research Integrity Officer conducts the investigation, reports findings, and makes a recommendation to determine if misconduct occurred in a specific case. If, at any time, there is any reasonable indication of possible criminal violations, the Investigative Body will inform the OIG.

The Office of the Inspector General (OIG) is responsible for the investigation of criminal allegations of fraud or waste at the Institution. In the case of allegations of misconduct in research, the OIG must be notified by the AHIC, the Investigative Body, or the OSP, as appropriate, if there is any reasonable indication of possible criminal violations.

The Smithsonian Under Secretary for Museums and Research/Provost serves as the Institutional Official and is responsible for Institution-wide oversight of the Misconduct in Research policy. The Institutional Official is the deciding official in misconduct investigations. Specific duties also include certifying the accuracy of the *Annual Report on Misconduct in*

8. RESPONSIBILITIES (continued)

Research to the ORI, liaising with the ORI and external sponsors on cases of alleged misconduct, and coordinating with other senior leadership in matters related to misconduct in research.

The Deputy Under Secretary for Collections and Interdisciplinary Support (DUSCIS) serves as the **Research Integrity Officer (RIO)**, makes determinations on research misconduct proceedings, and appoints an Investigative Body to review cases of alleged misconduct. The RIO notifies the Institutional Official of allegations, inquiries, and investigations no less than annually, in preparation for submitting the *Annual Report on Misconduct in Research* to the ORI.

The Secretary approves extensions for investigations and receives written appeals to overturn findings of the Institutional Official. If the Secretary does not make a final determination regarding an appeal within 120 calendar days of receipt of the appeal, the Secretary will request extensions from the appropriate federal agency or private organization that provides the grant or contract funding, if applicable. The Secretary will then make a final determination regarding appeals.

9. INQUIRY PROCEDURES

The purpose of the inquiry is to determine whether an allegation warrants an investigation. Whenever an allegation or complaint involving possible misconduct comes to the attention of a unit director, he or she will acknowledge allegations and appoint an AHIC to carry out an initial inquiry. He or she will also notify OSP of the allegation if sponsored projects funding is involved in the research activity.

The AHIC should be composed of three or more individuals with appropriate expertise and technical competence in the appropriate area. The purpose of the AHIC will be to gather and assess information in order to determine whether an allegation or apparent instance of misconduct warrants an investigation. The unit director will choose as chair and members of the AHIC a diverse group of individuals who have no real or apparent conflicts of interest.

On initiating the inquiry, the unit director will immediately alert the RIO that the inquiry is under way and verify that the allegation falls within the definition of misconduct under this policy. The RIO will ensure that members of the AHIC have no conflicts of interest which would or might appear to compromise the integrity of their inquiry. The unit director will promptly (within seven calendar days) take all necessary steps to obtain custody of and sequester in a secure manner all of the research records and evidence needed to conduct the research misconduct proceeding either before or when the respondent is notified. The unit director also will notify the

9. INQUIRY PROCEDURES (continued)

respondent in writing before beginning the inquiry. All parties will be expected to cooperate fully with the AHIC by answering questions and providing material necessary to conduct the inquiry.

The AHIC will begin the inquiry within seven calendar days of the allegation, and will distribute information to appropriate individuals. Identities of the parties will be kept confidential from individuals not part of the AHIC. Where appropriate, the respondent may receive copies of, or reasonable supervised access to, the research records.

All reasonable and practical efforts should be made to take custody of additional research records and evidence as they are discovered in the research misconduct proceeding. An exception occurs when the research records or evidence involve scientific instruments shared by a number of users, and then 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. Copies of all correspondence and documents in the case will be kept in a confidential file by the chair of the AHIC.

During the inquiry, the AHIC will maintain sufficiently detailed documentation to permit later assessment to determine whether an investigation was warranted.

Within 60 calendar days of the initiation of the inquiry, the AHIC will submit a signed written report to the unit director that states the evidence reviewed, summarizes relevant interviews, and outlines the findings of the inquiry. If the inquiry takes longer than 60 calendar days to complete, the AHIC will submit a signed, written request to the unit director for additional time. The record of the inquiry must document the reasons and the circumstances that require a longer period.

At the completion of the inquiry, the AHIC chair will provide all documentation to the unit director. The unit director will notify the Research Integrity Officer, the Institutional Official, the Secretary, and, if the source of funds is from a grant or contract, the OSP of the AHIC findings, within seven calendar days of the conclusion of the inquiry.

The respondent will receive a copy of the Institution's research misconduct policies, referencing the funding agency's regulations, if applicable, and a copy of the inquiry report. This copy of the inquiry report, to the extent permitted by law and regulation, will not contain the identities of the complainants or AHIC members who wish to remain anonymous. Any comments made by the respondent will be incorporated into the record of the case.

Based on the minimum requirements outlined in PHS regulations, codified at 42 CFR 93, and NSF regulations at 45 CFR §§ 689.1–689.10, for reviewing and investigating allegations of misconduct in research, at any time during an inquiry or investigation of allegations about

9. INQUIRY PROCEDURES (continued)

research that involves funding from a grant or contract, the Institutional Official, in coordination with the Director, OSP, will immediately notify a sponsor if he or she determines that:

- public health or safety is at risk;
- a federal agency's reputation, resources, or interests are threatened and need protection;
- research activities should be suspended;
- there is a reasonable indication of possible violations of civil or criminal law;
- federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected;
- the scientific community or the public should be informed; or
- the Smithsonian's inquiry into the allegation determines that there is sufficient evidence to proceed with an investigation.

If an allegation submitted in good faith is found to be unsupported by the inquiry, the unit director will inform all parties and discontinue any further action. The Institution will take reasonable steps to minimize damage to reputations that may result from inaccurate allegations. No Smithsonian employee or affiliated person shall be retaliated against or subjected to disciplinary action for reporting what he or she reasonably believes to be research misconduct; for participating as a witness in an inquiry into research misconduct; or for serving as a committee member for an inquiry into research misconduct.

10. INVESTIGATION PROCEDURES

The RIO will initiate an investigation, within 30 calendar days of completion of the inquiry, if the AHIC finds there are reasonable grounds for believing that misconduct has occurred. The RIO will then appoint an Investigative Body to review and determine if misconduct occurred in the specific case. The Investigative Body should be diverse and consist of at least three members.

Members may be Smithsonian staff or individuals external to the Institution. To ensure a sound knowledge base, the RIO will choose members for the Investigative Body who have appropriate

10. INVESTIGATION PROCEDURES (continued)

scholarly expertise in the area of the given case. No person who served on the AHIC will be eligible to serve on the Investigative Body in the same case.

In order to avoid conflicts of interests, the RIO will examine the business, professional, and social relationships of parties when selecting the members of the Investigative Body. Those relationships must be fully disclosed to the RIO. An individual who has the appearance of, potential for, or an actual conflict of interest may not be chosen to serve on the Investigative Body.

The RIO will notify the complainant and respondent that an investigation has been initiated and, on appointment, the names of the members of the Investigative Body. All parties will be expected to cooperate with the Investigative Body by providing information relating to the case. The Investigative Body will provide all relevant information to the respondent in a timely manner.

The respondent will have the right to provide comments and rebuttal, address the charges in writing, and present evidence.

The investigation will include examination of all documentation. Documentation will include but will not be limited to relevant research data and proposals, publications, correspondence, the written report from the AHIC, email, and memoranda. The Investigative Body will make every effort to interview all complainants and respondents, as well as others who may have information regarding key aspects of the allegations. Complete summaries of these interviews will be prepared, given to the interviewed parties for comment or revision, and included as part of the investigation file. The Investigative Body will ensure that each component of the investigation is carefully documented. For PHS-sponsored projects, the report sent to the ORI must include the requirements specified in 42 CFR § 93.309.

If the Investigative Body is unable to complete the conduct of the investigation and preparation of their report within 90 calendar days, it will submit to the RIO a written request for an extension, an explanation of the delay, an interim report of progress to date, and an estimated date of completion. The RIO will request an extension from the Secretary. The Secretary will then make the extension request to the appropriate federal agency or private organization. The Investigative Body may, at its discretion, elect to hold a hearing with all concerned parties.

The Investigative Body may recommend interim administrative actions/retractions to the RIO, to protect federal and trust funds, and to ensure that the purposes of the federal financial aid or private granting organizations are carried out.

The Institution will complete all aspects of the investigation phase within 120 calendar days of its initiation. This includes conducting the investigation, preparing a report of findings, making

10. INVESTIGATION PROCEDURES (continued)

that report available for comment by the subjects of the investigation, and submitting the report to the federal agency or private organization that provided the grant or contract funding (see Attachment A).

11. FINDINGS AND OUTCOMES

On conclusion of the investigation, and after a majority vote to adopt its findings, the Investigative Body will submit its written findings to the RIO within 90 calendar days of initiation of the investigation. The findings may include but are not limited to:

- a finding that no misconduct or serious error was committed;
- a finding that no misconduct was committed, but serious errors were discovered; or
- a finding of misconduct.

The report should contain a recitation of the material facts and an explanation of the basis for the findings. The RIO will review and transmit the report to the Institutional Official, who will make a decision based on the report of the Investigative Body. The respondent and the complainant will be permitted to read the full report of the investigation and the official decision. The respondent will be given the opportunity to comment on the report or file a written appeal with the Secretary within 15 calendar days of receipt of the Institutional Official's decision.

If the source of the funding is from a grant or contract, the Institutional Official will forward through the OSP to the funding agency a copy of the evidentiary record, the investigative report, recommendations made to the Institutional Official, the official decision, and the respondent's written response to the decision, within 120 calendar days of initiation of the investigation. For projects funded by a private sponsor, the Assistant Secretary, Office of Advancement, will be consulted.

All persons and entities initially informed of the investigation will be notified promptly of the decision by the RIO. In addition, the Office of Sponsored Projects will retain the findings of the investigation in a secure, confidential file for a period of seven years.

If the investigation determines that misconduct occurred, management may consider taking action against the respondent, including but not limited to:

- disciplinary actions, such as a letter of reprimand, suspension without pay, reduction in grade or pay, or termination of employment or SI affiliation;

11. FINDINGS AND OUTCOMES (continued)

- removal from a particular project;
- correction of the research record; and/or
- special monitoring of future work.

The same disciplinary actions may be taken against a complainant found to have made allegations of misconduct in bad faith. The decision on disposition resides with the Institutional Official, pending the appeals process, and will be coordinated with other disciplinary actions and policies of the Institution. If the Investigative Body determines that the allegations are unfounded and no misconduct occurred, the Institutional Official will close the matter and notify the respondent and the complainant. The Institution will make diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in misconduct, and to protect the positions and reputations of persons who, in good faith, made the allegations.

If no misconduct was found but serious error was revealed, the RIO will recommend the means for mitigating or avoiding the consequences of such error.

12. APPEAL AND FINAL DECISION

Within 15 calendar days of receipt of a determination of misconduct made by the Institutional Official, which is no later than 105 calendar days of initiation of the investigation, the complainant and/or respondent may file a written appeal with the Secretary. Grounds for appeal of the decision are limited to:

- failure to follow appropriate procedures in the investigation; or
- capricious decision making.

No new evidence may be presented at the appeal stage unless such facts were unknown at the time of the investigation.

The Smithsonian must complete its review of the appeal as soon as practicable, but not to exceed 120 calendar days from the filing of the appeal. If unable to complete review of the appeal within that time period, the Secretary, in coordination with the OSP, will request an extension from the appropriate federal agency or private organization that provides the grant or contract funding, if applicable.

The Secretary may accept, reject, or modify the decision. The decision of the Secretary is final.

12. APPEAL AND FINAL DECISION (continued)

If the source of funding is a grant or contract, the Institutional Official, through OSP, will forward the official decision and appropriately notify the sponsoring agency of any corrective actions taken or planned.

13. RECORD MAINTENANCE DURING INQUIRY, INVESTIGATION, AND DECISION-MAKING PROCESSES

Relevant research records and evidence, final inquiry reports, final investigation reports, and records of appeals will be secured, using Smithsonian archiving procedures, for a period of at least seven years after termination of the inquiry and will be provided to the Office of Research Integrity or funding sponsor on request.

Records maintained by the Smithsonian during the course of responding to allegations of research misconduct may be disclosed in accordance with [SD 807, *Requests for Smithsonian Institution Information*](#).

14. REFERENCES

Additional guidelines include the following resources:

- [SD 605, *Animal Care and Use*](#);
- [SD 606, *Research Involving Human Subjects*](#);
- [SD 611, *Export Compliance and Trade Sanctions Related to Research, Export and Museum Activities*](#);
- PHS Regulations, codified at 42 CFR Part 93;
- NSF Regulations, 45 CFR (1993), §§ 689.1–689.10, and Part 689; and
- *Federal Policy on Research Misconduct*, Office of Science and Technology Policy.

SUPERSEDES: SD 604, September 8, 2009.

INQUIRIES: Office of Sponsored Projects (OSP)

RETENTION: Indefinite. Subject to review for currency 36 months from date of issue.