



# MERRIMACK COLLEGE

Approved By:	Dr. Christopher E. Hopey, President; Executive Leadership Group
Effective Date:	May 26, 2017
Supercedes:	All prior Research Misconduct Policies
Official Responsible:	Provost or his/her Designee

<b>Policy Name</b>	<b>Research Misconduct Policy</b>
Policy Category	Academic/Research Policies
Subject	Research Misconduct
Office Responsible	Sponsored Programs
Audience for Policy	Merrimack College
Internally or Externally Facing	Both
Procedures Links	Attached as an Appendix to this Policy
Related College Policies	All OSP Sponsored Programs Policies

(last edited 5/26/17)

## SCOPE

This policy applies to allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results) involving a person who, at the time of the alleged research misconduct, was employed by, was an agent of, was affiliated by contract or agreement with, or was a visiting scholar at Merrimack College; and (1) research, research training, or activities related to that research or research training, (2) applications or proposals for support for research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of research or research training or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether any application or proposal for funds resulted in a grant, contract, cooperative agreement, or other form of support and regardless of whether any funding for the research was sought from any source. This policy is in accordance with 42 CFR Parts 50 and 93 Public Health Service Policies on Research Misconduct; Final Rule; Department of Health and Human Services; Federal Register.

## POLICY STATEMENT

Merrimack College (hereinafter “College”) supports and encourages full freedom of inquiry, scholarship and publication and teaching, within the law. The College believes that any and all scholarship and educational activities that are carried out by its faculty, administrators and/or staff will be characterized by the highest standards of ethical behavior and integrity. The College believes that the occurrence of misconduct is a threat to the basic principles of research. Misconduct in research damages the integrity of the profession and undermines the credibility of scholars. It is also antithetical to the College’s values. The College takes seriously all allegations of misconduct and believes that the procedures for the inquiry, investigation and adjudication of any misconduct should be clear for all parties involved. Merrimack College is also cognizant of the need to protect the complainant, the respondent, and all witnesses involved in any misconduct proceeding.

The purposes of this policy are (1) to address research misconduct, which is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results; and (2) to establish clear and coherent procedures for responding to research misconduct allegations in a thorough, timely, and fair manner. It is important to note that research misconduct does not include honest error or differences of opinion.

This policy conforms to the United States Public Health Service (Department of Health and Human Services) regulations under 42 Code of Federal Regulations (CFR) Part 93.

While 42 CFR Part 93 applies to all individuals who may be involved with a project supported by, or who have submitted a grant application to, the Public Health Service (PHS), Merrimack College's policy applies to all individuals engaged in College research regardless of funding source.

The Merrimack College Research Misconduct Policy is based on a sample policy proposed by the Office of Research Integrity, U.S. Department of Health and Human Services (available online at <http://ori.dhhs.gov/policies/documents/SamplePolicyandProcedures-5-07.pdf>). The policy has been informed by similar policies at the following institutions:

*Boston College, Brown University, Columbia University, Davidson College, Duke University, Emory University, Occidental College, University of California-Irvine, University of North Texas, University of North Carolina*

## DEFINITIONS

**Allegation:** A disclosure of possible research misconduct to an institutional official or sponsor, using any means of communication (oral, written, electronic, or other).

**Complainant:** A person who in good faith makes an allegation of research misconduct.

**Evidence:** Any document, tangible item, or testimony offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

**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 such that the research is not accurately represented in the research record.

**Inquiry:** Preliminary information-gathering and preliminary fact-finding.

**Institutional member:** Any member of the college community, including faculty, students and staff.

**Investigation:** Formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct, which may include a recommendation for other appropriate actions, including administrative actions.

**Plagiarism:** The appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

**Research Integrity Officer (RIO):** The appointee with primary responsibility for implementing the policy.

**Research misconduct:** Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

**Respondent:** The individual against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

## **Rights and Responsibilities**

### **A. Research Integrity Officer**

The Research Integrity Officer (RIO) will have primary responsibility for implementation of the procedures set forth in this document. The RIO will be an institutional official who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of misconduct and those who report apparent misconduct in good faith. Appointed by the president, the RIO will in most instances be the Provost of the college or a Provost designee.

### **B. Complainant**

The Complainant may have an opportunity to testify before the inquiry and investigation committee, to review portions of the draft inquiry and investigation reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. The Complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating, in good faith, with an inquiry or investigation.

### **C. Respondent**

The Respondent will be informed of the allegations prior to or when an inquiry is opened and notified in writing of the final determinations and resulting actions. The Respondent may also have the opportunity to be interviewed by and present evidence to the inquiry and investigation committees, to review the draft inquiry and investigation reports, and to have the advice of legal counsel should he/she so desire (and at his/her own expense). The Respondent is responsible for cooperating with the conduct of an inquiry or investigation. If the Respondent is not found to have committed research misconduct, he or she has the right to receive institutional assistance in restoring his or her reputation.

The respondent should be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. In such case, the RIO, with the advice of the appropriate institutional officials, may terminate the College's review of an allegation that has been admitted, subject to obtaining prior approval from the relevant office of an involved funding entity in accordance with any federal or state requirement. If no funding entity is involved, the RIO's decision to terminate the review of an admitted allegation shall be final.

The termination of the respondent's employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the College's responsibilities under 42 CFR Part 93.

If the respondent, without admitting to the misconduct, elects to resign his or her position at the College after the College receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best

efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

## **POLICY**

### ***A. Responsibility to Report Misconduct***

All institutional members will report observed, suspected, or apparent research misconduct to the RIO. Any Merrimack College official who receives an allegation of research misconduct must report it immediately to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the RIO, Department Chair, or other College official and will be counseled about appropriate procedures for reporting allegations. Any such discussions and consultations will be confidential to the extent allowed by law.

### ***B. Cooperation with Research Misconduct Proceedings***

Institutional members will cooperate with the RIO and other College officials in the review of allegations and the conduct of inquiries and investigations. Institutional members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other College officials.

### ***C. Confidentiality***

The RIO shall (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective, and fair research misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

### ***D. Protecting complainants, witnesses, and committee members***

All College employees and institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses, or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

### ***E. Protecting the Respondent***

As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents

receive all the notices and opportunities provided for in 42 CFR Part 93 and the policies and procedures of the College.

***F. Interim Administrative Actions and Notification of Special Circumstances***

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal funds, and/or equipment. In the event of such a threat, the RIO will, in consultation with other College officials and the sponsor, if applicable, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of federal funds and equipment, reassignment of personnel or of the responsibility for the handling of federal funds and equipment, additional review of research data and results or delaying publication.

**EFFECTIVE DATES**

This policy was effective [insert date]

**SIGNATURE, TITLE AND DATE OF APPROVAL**

This policy needs to be signed by the appropriate officer (listed below) before it is considered approved.

Approved:

\_\_\_\_\_  
Signature on file  
Christopher E. Hopey, Ph.D.  
President  
Date Approved: May 30, 2017

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Signature on file  
Executive Vice President  
Date Approved: May 30, 2017

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Signature on file  
Basil A. Stewart  
Senior Vice President and Chief Financial Officer  
Date Approved: May 30, 2017

## **Appendix: PROCEDURE FOR ALLEGED RESEARCH MISCONDUCT**

### ***A. Inquiry***

The purpose of this stage is to determine, with minimum publicity and maximum confidentiality, whether there exists a sufficiently serious problem to warrant a formal investigation. It is crucial at this stage to separate substantive issues from conflicts between colleagues that may be resolved without a formal investigation.

#### *1. Initiating the Inquiry*

All allegations of research misconduct, arising from inside or outside the College, should be referred directly to the RIO immediately and confidentially. The RIO may initiate an inquiry without a specific complaint if it is felt that evidence of suspicious research misconduct exists.

When a complaint comes forth, the RIO's first job is to provide confidential advice. If the issue involved does not amount to misconduct, satisfactory resolution through means other than this policy should be sought. However, if there is an indication that misconduct might have occurred, the RIO must pursue the case even in the absence of a formal allegation. Moreover, the case must be pursued to its conclusion even if a complainant and/or respondent resign from their positions at the College.

The RIO should also advise those involved that, should it be found at either the inquiry or the investigation stage that the allegations were both false and malicious, confidentiality may not be further maintained and sanctions may be brought to bear against the complainant.

#### *2. Inquiry Procedure*

The RIO is responsible for conducting the inquiry (except, as noted above, where a conflict of interest might be perceived). The RIO may call upon the Department Chair (if more than one Department is involved, more than one Department Chair may be informed), and one or more senior colleagues for help where specific technical expertise is required, but this need should be carefully weighed against the importance of confidentiality at this stage.

The RIO will notify the President, and call upon the College legal counsel at this stage. Personal legal counsels for either complainant or respondent are barred from interviews. All parties should recognize that the College legal counsel always acts on behalf of the College, not on behalf of one or the other party.

The nature of the inquiry will depend on the details of the case and should be worked out by the RIO in consultation with the respondent, with any colleague the RIO calls on for assistance, and with the College legal counsel. At this stage, every effort should be made to keep open the possibility of resolving the issue without damage to the position or reputation of either the complainant or the respondent. However, the RIO's primary allegiance must be to the integrity of academic research and to the College, not to the individuals. If research misconduct has been committed, it must not be covered up.

The inquiry should be completed, and a written record of findings should be prepared, within 30 days of its initiation. If the 30-day deadline cannot be met, a report citing progress to date and the reasons for the delay should be sent to the respondent.

#### *3. Findings of the Inquiry*

The inquiry is completed when a judgment is made by the RIO of whether a formal investigation

is warranted. An investigation is warranted if a reasonable possibility of research misconduct exists. Written documentation summarizing the process and the conclusion of the inquiry must be prepared. After the draft is reviewed and commented on by the respondent, the final document will be filed in the RIO's office. The RIO must inform the complainant whether the allegations will be subject to a formal investigation.

If a formal investigation is warranted, where applicable, the agency sponsoring the research should be notified at this point. If the allegation is found to be unsupported but has been made in good faith, no further action is required. Aside from informing all parties, all attempts should be made to promote collegiality. If confidentiality has been breached, the RIO may wish to take reasonable steps to minimize the damage done by the breach. If the allegation is found not to have been made in good faith, the RIO should inform the President and may consider possible disciplinary action. If a complainant is not satisfied with a RIO's finding that the allegations are unsupported, the result may be appealed to the President.

### ***B. Investigation***

When an inquiry results in a finding that an investigation is warranted, an investigation should be initiated within 30 calendar days after the conclusion of the inquiry and the RIO should notify the Office of General Counsel. The purpose of the investigation is to determine whether misconduct has been committed. If an investigation is initiated, the RIO should decide whether interim administrative action is required to protect the interests of research subjects, students, colleagues, the funding agency, or the College while the investigation proceeds. Possible actions might include temporary suspension of the research in question. If there is reasonable indication of possible criminal violations, the Office of General Counsel must be informed by the RIO within 24 hours.

#### ***1. The Investigation Committee***

The RIO shall appoint an Investigation Committee. The principal criteria for membership shall be fairness and wisdom, technical competence in the field in question, and avoidance of conflict of interest. Membership of the committee need not be restricted to the faculty of the College. The committee will include the chair or vice-chair of the Institutional Review Board unless this person has a perceived conflict of interest.

The committee should be provided with a budget that will enable it to perform its task. The RIO should write a formal charge to the committee, informing it of the details of its task.

#### ***2. The Investigation Process***

Once the Investigation Committee is formed, it should undertake to inform the respondent of all allegations so that a response may be prepared. It is assumed that all parties, including the respondent, will cooperate fully with the Investigation Committee. The committee should call upon the help of the College legal counsel in working out the procedure to be followed in conducting the investigation. The respondent should be fully informed of the procedure chosen.

At this stage, confidentiality become secondary to a vigorous investigation leading to a conclusive determination of the facts. Nevertheless, every attempt should be made to protect the reputations of all parties involved. In cases where witnesses are involved, their statements must be recorded or transcribed, with witnesses given an opportunity to review and correct their statements.

A copy of the committee report should be given to the respondent for an opportunity to

comment. In addition, the respondent should be given the opportunity for a formal hearing before the Investigation Committee. College legal counsel should be called upon to assist in working out the procedure to be followed in conducting such a hearing.

### ***C. Resolution***

Regardless of the outcome, all federal agencies or other entities initially informed of the investigation should be notified promptly.

#### *1. No Finding of Misconduct, or Serious Error*

A full record of the investigation should be retained by the RIO in a secure and confidential file for at least three years. Following a final finding of no research misconduct, the RIO will undertake all reasonable and practical efforts to restore the respondent's reputation. The RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the respondent's personnel file.

If allegations are found to have been made in the absence of good faith, the RIO may wish to recommend to the President appropriate disciplinary action. If the allegations are found to have been made in good faith, steps should be taken to prevent retaliatory actions.

#### *2. Finding of Serious Error*

The RIO should decide on an appropriate course of action to deal with the serious error, and to correct the scholarly or scientific record.

#### *3. Finding that Misconduct was Committed*

The RIO should forward the committee report to the President with a recommendation of sanctions and other action to be taken. The President should review the full record of the inquiry and investigation. The respondent may at this stage appeal to the President on grounds of improper procedure or a capricious or arbitrary decision based on the evidence in the record. New evidence may lead the President to call for a new investigation or further investigation, but not to an immediate reversal of the finding. After hearing any appeal and reviewing the case, the President should make a decision. The decision of the President is final.

In addition to regulatory authorities and sponsors, all interested parties should be notified of the final disposition of the case and provided with any legally required documentation.