

Title: **Ethical Conduct of Research
and Research Misconduct**
Code: **4-210-020**
Date: **1-4-07**
Approved: **WPL**

INTRODUCTION

This statement sets forth Boston College's policy on the ethical conduct of research and the University's procedures for addressing instances of research misconduct. This policy describes the rights and responsibilities of research personnel, administrators, and others in the academic community in a manner that is consistent with the requirements of applicable federal regulations and policy.

This policy applies to all persons affiliated with Boston College ("the University"), including faculty and research personnel (including any temporary or adjunct members of the research staff, graduate students, and other trainees). Cases of alleged research misconduct involving undergraduate students are subject to the normal disciplinary rules governing students, but will be reviewed, as appropriate, under this Policy. This policy applies with equal force to unfunded research, research funded by the University, and research funded by an external entity. This Policy applies to the conduct of research, reporting to sponsors, presentation, or publication of results, and the process of applying for sponsored funding.

If sponsored funds are involved in the research, the University shall take into account any applicable regulatory requirements and agreements with the sponsor. If applicable, such requirements and agreements shall be deemed to be incorporated into this Policy, and to the extent any of these requirements and agreements conflict with this Policy, they shall control. The Director, Office for Research Compliance, shall review applicable sponsor agreements and regulatory requirements and advise the Provost, Vice Provost for Research, Inquiry Committees, and Investigation Committees when they differ from this Policy.

POLICY

In keeping with the central importance the Jesuit tradition places on the search for truth, it is the policy of the University that those conducting research will adhere to the highest ethical standards. The University shall review, inquire into and, if necessary, investigate all instances of alleged misconduct; and shall endeavor to resolve all instances of alleged misconduct promptly and fairly. When sponsored project funds are involved in the research, the University will comply in a timely manner with sponsor requirements for reporting on cases of possible misconduct, consistent with the sponsor's policies, whether or not specifically incorporated in the Procedures outlined below.

Since a charge of research misconduct, even if unjustified, may damage an individual's career, any allegation of research misconduct must be handled in an expeditious and confidential manner. It is of paramount importance that full attention be given to the rights of all individuals involved.

DEFINITIONS

Research misconduct means fabrication, falsification or plagiarism in proposing, performing, or reviewing research or reporting research results, or in the conduct of other academic pursuits. It also includes unethical research involving living research subjects as well as retaliation against those making allegations of research misconduct. Research misconduct does not include honest error or differences of opinion.

Allegation means a disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement or other communication to a University official.

Complainant means a person who in good faith makes an allegation of research misconduct.

Evidence means 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 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.

Good faith as applied to a Complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the Complainant's or witness's position could have based on the information known to the Complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping the University meet its responsibilities under this Policy and applicable contracts or regulations. A committee member does not act in good faith if his or her acts or omissions in serving on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.

Inquiry means preliminary information-gathering and preliminary fact-finding that meets the criteria set forth below.

Investigation means the formal development of a factual record and the examination of that record leading to a decision either to make a finding of no research misconduct or to recommend a finding of research misconduct, which may include a recommendation for other appropriate actions, including administrative actions.

Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Research record is the record of data or results that embody the facts resulting from scientific inquiry or other record of the results of academic inquiry, and includes, but is not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, notes, internal reports, journal articles, publications and any documents provided to a research sponsor in the course of a research misconduct proceeding.

Retaliation means an adverse action taken against a Complainant, witness, or committee member by a member of the University community in response to--

- (a) A good faith allegation of research misconduct; or
- (b) Good faith cooperation with a research misconduct proceeding.

Subject means a member of the University community against whom research misconduct is alleged and whose research activities are reviewed pursuant to this Policy.

Unethical Research Involving Living Research Subjects includes, but is not limited to, the mistreatment and exploitation of human and animal research subjects. It also includes the willful violation of research protocols approved by duly authorized University committees and the willful conduct of human and animal research without having obtained the appropriate research approval by a duly authorized University committee.

REQUIREMENTS FOR FINDINGS OF RESEARCH MISCONDUCT

- A. A finding of research misconduct requires that--
 - (a) There be a significant departure from accepted practices of the relevant research community; and
 - (b) The misconduct be committed intentionally, knowingly, or recklessly; and,
 - (c) The allegation be proven by a preponderance of the evidence.
- B. The following evidentiary standards apply to findings made under this Policy.
 - (a) Standard of proof. A finding of research misconduct must be proved by a preponderance of the evidence.
 - (b) Burden of proof.
 - (1) The University has the burden of proof for making a finding of research misconduct. The destruction, absence of, or Subject's failure to provide research records adequately documenting the questioned research is evidence of research misconduct where the University establishes by a preponderance of the evidence that the Subject intentionally, knowingly, or recklessly had research records and destroyed them, had the opportunity to maintain the records but did not do so, or maintained the records and failed to produce them in a timely manner and that the Subject's conduct constitutes a significant departure from accepted practices of the relevant research community.
 - (2) The Subject has the burden of going forward with and the burden of proving, by a preponderance of the evidence, any and all affirmative defenses raised. The finder of fact shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the Subject.
 - (3) The Subject has the burden of going forward with and proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose disciplinary measures following a research misconduct proceeding.

RESPONSIBILITIES

1. Community Responsibilities. All members of the University community are responsible for reporting what they believe to be misconduct on the part of the faculty, research personnel (including and temporary or adjunct members of the research staff), students, and other trainees. Any person who possesses information that leads him or her to believe that a member of the University community who has engaged in an activity that could be construed as research misconduct should report the matter in writing, if possible, to the Vice Provost for Research.

All members of the University community are required to cooperate with the individuals directing any proceeding pursuant to this Policy, and to provide any and all information requested by a person charged under this Policy with the responsibility of investigating an allegation of research misconduct.

2. Responsibilities of Persons Engaged in Research Activities. Those performing research of any type are responsible for maintaining the highest ethical standards in their research.

- a. **Responsibilities of Persons in Supervisory Positions.** Principal Investigators are responsible for (1) assuring that this Policy is communicated to and followed by all who work under their supervision, directly or indirectly; (2) assuring the validity of all data and information developed and communicated by their research groups; and (3) assuring appropriate citation of contributions from those within and outside each research group.
- b. **Responsibilities of Persons Who Collaborate on Research Projects.** Co-authorship denotes involvement and responsibility for the reported and published research. 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.

3. Responsibilities of Administrators. The Provost and Dean of Faculties, the Vice Provost for Research, the General Counsel, the Director, Office for Sponsored Programs (the "Director (OSP)"), and the Director, Office for Research Compliance ("Director (ORC)") are charged with ensuring the implementation of this Policy. They will disseminate the Policy to the University community, and, when an allegation of misconduct is made, they will assure that the appropriate review procedures are begun promptly. In addition, the Director (ORC) shall be responsible for: (1) maintaining in accordance with applicable laws and regulations accurate records of proceedings and activities under this Policy; (2) ensuring, where required, that proper and timely reporting to sponsors is made for any allegation, Inquiry or Investigation of misconduct; (3) representing the University when present or former research personnel are the subject of allegations, Inquiries, or Investigations that involve outside institutions; and (4) serving as consultant to the Vice Provost for Research and the Provost during an Inquiry or Investigation in which the Director (ORC) is not directly involved.

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

- a. **Confidentiality.** To protect the reputation and professional and institutional standing of individuals against whom misconduct is alleged (the "Subject"), persons who participate in any way in the filing of an allegation under this policy shall maintain all information about the matter in absolute confidence. Unless the subject matter being discussed is otherwise available to the public, such persons should only discuss the matter in the context of the procedures detailed in this Policy. Any inquiries about the matter from the press and other persons both inside and outside the University community should be directed to the Provost, who shall coordinate all public releases with the Office of Public Affairs.

Disclosure of the identity of Subjects and Complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective and fair research misconduct proceeding, and as required by law or regulation. Notwithstanding the foregoing:

- (1) The University must disclose the identity of Subjects and Complainants to sponsors pursuant to a sponsor review of research misconduct proceedings.
 - (2) Federal administrative hearings must be open to the public.
- b. **Conflict of Interest.** Prior to participation in any aspect of an Inquiry or Investigation, a person who will be involved in any capacity is required to disclose to the Vice Provost for Research in writing the existence of (i) a conflict of interest, or (ii) 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 Inquiry Committee or of the Investigation Committee established under this Policy. The Vice Provost for Research will be

responsible for determining how to resolve any conflicts of interest that arise after the commencement of any Inquiry or Investigation...

- c. **Retaliation.** Neither the Subject nor any other member of the University community will retaliate in any way against a Complainant, witness, or community member involved in a research misconduct proceeding.

PROCEDURES FOR REVIEWING AND RESOLVING ALLEGATIONS OF RESEARCH MISCONDUCT

1. Allegations

- a. Allegations of research misconduct shall be delivered to the Vice Provost for Research in person or in a sealed envelope prominently marked "confidential".¹ Allegations may also be made to the Vice Provost for Research orally and in confidence. The Vice Provost for Research will make a preliminary evaluation of the allegation to determine whether it (1) falls within the definition of research misconduct and (2) is sufficiently credible and specific so that potential evidence of research misconduct may be identified. In carrying out this evaluation, the Vice Provost for Research may consult in confidence with others as appropriate before passing on the matter.
- b. If the allegation appears to merit an Inquiry, the Vice Provost for Research will immediately inform the Director (ORC) and the Provost of the substance of the allegations.
- c. If the Vice Provost for Research finds that the allegation does not warrant an Inquiry, and the Director (ORC) concurs, the allegation will be closed without further proceeding of any kind. If a matter is dismissed at this point, no record of it will be maintained other than a sealed written report stating the reasons for the dismissal. The sealed record shall be maintained by the Director (ORC) for three years after final action is taken or such longer time as may be required by sponsor policy, but it will not be referred or made part of any personnel or other records of either the Subject or the person who reported the suspected research misconduct.
- d. The person having reported the suspected research misconduct will be notified of the determination that the allegation does not warrant an Inquiry, and may appeal the determination to the Provost. If the Provost concurs that the allegation does not warrant an Inquiry the allegation will be dismissed.
- e. In the event an allegation is found not to warrant an Inquiry or an Investigation and the allegation is dismissed, should additional evidence be presented at a later date, the University reserves the right to re-open the matter. In such event, the University will proceed at the stage at which the original allegation was dismissed.

2. Inquiry

- a. If, after evaluation, the Vice Provost for Research or the Provost determines that the allegations merit an Inquiry, the Vice Provost for Research will initiate an Inquiry.
- b. The Vice Provost for Research will make a good faith effort to notify the Subject in writing of both the allegation and the impending Inquiry. The Subject will be given a

¹ In any case in which the Vice Provost for Research alleges that a person has committed research misconduct or is alleged to have committed research misconduct, the Provost will fulfill the duties assigned by this Policy to the Vice Provost for Research.

copy of the procedures for review of allegations of research misconduct. The appropriate departmental Chairperson and academic Dean will also be notified.

- c. The purpose of the Inquiry is to conduct an initial review of the evidence to determine whether an allegation of research misconduct warrants a full Investigation and/or requires that special action be taken pending resolution of the allegation of research misconduct. The Inquiry will determine whether the allegation of misconduct appears to have sufficient substance to merit an Investigation and the likely scope of any necessary Investigation. An Inquiry should be completed within sixty (60) days after an allegation is filed with the Vice Provost for Research. If an Inquiry takes longer than sixty (60) days to complete, the justification for the additional time shall be documented and made a part of the record.
- d. The Inquiry will be conducted by an Inquiry Committee composed of at least three tenured faculty members chosen by the Vice Provost for Research in consultation with the Director (ORC).
- e. The Inquiry Committee will consist of one individual from the department to which the Subject belongs; one individual who belongs to a department other than the one to which the Subject belongs; and one individual who is a member of the University Research Council (the "Research Council"). All members will have appropriate qualifications to evaluate the issues raised in the Inquiry. The member of the Research Council will chair the Inquiry Committee.
- f. The Inquiry Committee will have access to documents relating to the alleged misconduct, and may interview the person who filed the allegation and the Subject.
- g. The Inquiry Committee will submit a written report to the Vice Provost for Research. The report shall state what evidence was reviewed, summarize relevant interviews, and state the conclusions of the Inquiry Committee.
- h. The Subject shall be given a copy of the report. Any comments on the report made by the Subject shall be made a part of the record.
- i. After receiving the written report of the Inquiry Committee, the Vice Provost for Research will determine whether to dismiss the matter or to proceed with an Investigation. The criteria warranting an investigation are (1) whether the allegation falls within the definition of research misconduct and (2) whether the preliminary information-gathering and fact-finding indicate that the allegation may have substance. The Vice Provost for Research will notify the Provost, the Director (ORC), the Subject, the individual who made the allegation, the appropriate Department Chair and Dean of the decision.
- j. If the person who filed the allegation disagrees with a decision to dismiss the matter, he or she may appeal to the Provost in writing, specifying the factual basis for reversing the decision. The Provost will consider the appeal and, after reviewing his or her prior dismissal, make a final determination as to appropriate action.
- k. Irrespective of the results of the Inquiry, one copy of all the information assembled in the course of the Inquiry will be placed in a sealed file and maintained by the Director (ORC) for at least three years or such longer time as required by sponsor policy. All other copies of materials shall be either destroyed or returned to the appropriate persons.

3. Investigation

- a. The purpose of an Investigation is to examine thoroughly an allegation of research misconduct and to determine whether a finding of research misconduct is warranted.
- b. If the Vice Provost for Research determines to proceed with an Investigation, he or she will convene the Investigation Committee. The members will be drawn from the membership of the University Research Council and other individuals at the discretion of the Vice Provost for Research to investigate the allegation, and may include members of the relevant Inquiry Committee.
- c. When appropriate, the Investigation Committee may request the Vice Provost for Research to appoint experts from outside the University to serve on the Investigation Committee as non-voting consultants.
- d. As required by applicable law, regulations, and sponsor policies, the Director (ORC) will notify sponsor(s) supporting the research work under Investigation that an Investigation is taking place. Specific sponsor requirements, such as the time within which certain steps are to be taken, will be observed, and will be communicated by the Director (ORC) to the Investigation Committee and to the Subject. For example, United States Public Health Service (“PHS”) policy requires that an Investigation be commenced within thirty (30) days of determining that an investigation is warranted, and that the Investigation be completed within one hundred and twenty (120) days, unless permission for extension is granted by the relevant funding agency.
- e. The Investigation Committee will function as an independent fact finding and investigative body. Using the allegation of research misconduct as a basis, the Investigation Committee will examine all relevant writings, data, physical evidence, and witnesses to determine whether a finding of research misconduct should be made. All members of the Investigation Committee must be present when a witness is interviewed or physical evidence is examined. Investigation Committee members may examine writings or transcripts of data independently, provided that all members must be present whenever the Investigation Committee discusses the allegation.
- f. The Investigation shall include a review of all research records related or helpful in the matter and may also include a review of other documents such as grant or contract files, correspondence and memoranda of telephone calls. The Investigation may also include inspection of laboratory or clinical facilities, equipment and/or materials, interviews of persons involved in or having knowledge about the matters raised in the allegation, and where necessary, solicitation of expert advice relevant to the Investigation. The Investigation Committee will focus on the matters contained in the allegation of research misconduct, but may review previous research efforts of the affected personnel, or records of previous Inquiries and Investigations into research misconduct, if relevant to the Investigation. Complete summaries of any interviews conducted should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file, provided that any sponsor requirements with respect to interviews shall be followed, including, if applicable, the recording of interviews.
- g. The Subject will be given the opportunity to respond to the allegation orally and in writing, and to provide information for consideration by the Investigation Committee. To prepare his or her response, the Subject will be given a copy of the report of the Inquiry Committee and the charge to the Investigation Committee. The Subject will be kept informed by the Investigation Committee Chairperson of the progress of the Investigation. As the Investigation progresses, the Subject will be allowed to review all

documents examined by the Investigation Committee and summaries of all interviews carried out by the Investigation Committee.

- h. At regular intervals, the Investigation Committee will inform the Director (ORC) of the progress of its Investigation in writing, and will notify the Director (ORC) if it expects to be unable to conclude deliberating the matter before an established deadline. In such an event, the Investigation Committee should notify the Director (ORC) in time for the Director (ORC) to process all requests for extension of time required by any agency or sponsor.
- i. Confidential, detailed written minutes shall be kept of all Investigation Committee proceedings. Tape or digital recordings may be made of any meetings if the Investigation Committee considers it advisable to do so, but tape or digital recordings will be considered supplemental to the written minutes.
- j. At the request of the Subject of an allegation or any other person being interviewed by the Investigation Committee, the Investigation Committee may permit the person's legal counsel to be present during the Investigation Committee's meetings with that person. If the interviewee's counsel will be present, University Counsel will be so notified by the Investigation Committee and invited to attend. When invited, legal counsel may observe but shall not participate in the proceedings. With the prior approval of the Investigation Committee, the Subject may also be accompanied by a non-attorney colleague.
- k. The Investigation Committee will prepare a draft final report and provide a copy of such report to the Subject, who will be afforded a reasonable time to review and comment, offer corrections, accept its conclusions, or deny the allegations. The Investigation Committee's report will respond to the allegations made, and will assess the validity of those allegations.
- l. After taking into account and, when appropriate, acting on the Subject's response, the Investigation Committee will submit a final report to the Vice Provost for Research. If the Investigation Committee recommends that a finding be made that the Subject has committed research misconduct, the Investigation Committee may also recommend one or more sanctions in its report. Minority reports and the Subject's response to the report will be transmitted with the Investigation Committee's report.
- m. The Vice Provost for Research will forward the Investigation Committee's report and his or her recommendation to the Provost. If the Provost finds that the Subject has not engaged in research misconduct, the Provost will dismiss the matter. If the Provost finds that the Subject of an allegation engaged in research misconduct, the Provost will determine what, if any, sanctions to impose. The Provost will inform the Subject, the Director (ORC), the Vice Provost for Research, and the appropriate departmental chairperson and/or Dean of his or her decision in writing.
- n. During the course of the Inquiry or Investigation, the Director (ORC), Inquiry Committee, or Investigation Committee may recommend to the Vice Provost for Research that interim action be taken to comply with applicable regulation or to protect the public, the University, or any persons involved in the matter under Investigation. The Vice Provost for Research may either take appropriate action or make a recommendation to the Provost that appropriate action be taken. The Vice Provost for Research and/or the Provost may, within the limits of their authority, take such interim actions as they deem prudent.

- o. At the conclusion of the Investigation, all originals and copies of all evidence, committee notes, paper and digital files, and documents obtained or developed shall be collected by the Chair of the Investigation Committee and sent to the Director (ORC). The Director (ORC) shall maintain these records in accordance with Section VII.5 of this Policy.

4. Custody of Research Records and Evidence:

- a. As may be appropriate to the particular case, either before or at such time as the Vice Provost for Research notifies the Subject of the allegation, Inquiry or Investigation, the Vice Provost for Research will promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, 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;
 - b. Where appropriate, the Vice Provost for Research will give the Subject copies of, or reasonable, supervised access to the research records;
 - c. The Vice Provost for Research will undertake all reasonable and practical efforts to take custody of additional research records or evidence that is discovered during the course of a research misconduct proceeding, except that where the research records or evidence encompass scientific instruments shared by a number of users, 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; and
 - d. Research records and evidence shall be maintained in accordance with the terms of this Policy.

POST-INVESTIGATION AND OTHER RESPONSIBILITIES OF PERSONS INVOLVED IN THE REVIEW OF ALLEGED RESEARCH MISCONDUCT

1. Notifying Outside Parties. At the conclusion of the Investigation, or at any other time required by an involved granting agency, the Director (ORC) will notify the sponsor of the alleged facts of the matter, the conclusions rendered, and the disposition of the matter by the University. The Director (ORC) will notify other outside parties as may be appropriate, including publishers or institutions with whom the party found to have committed research misconduct is now, or has been previously, professionally affiliated. The Provost will determine what, if any, release of information about the incident should be made to the public.

2. Working with Research Sponsors. In the case of sponsored projects, the Director (ORC) is responsible for determining and complying with the sponsor's reporting requirements, representing the University in all negotiations with the sponsor, and, in coordination with the Director (OSP), implementing any administrative actions that may be directed by the sponsor.

3. Restoring the Reputation of Persons Falsey Accused of Research Misconduct. If the alleged research misconduct is not substantiated by the Investigation, the University will make positive and reasonable efforts to restore the reputation of the Subject at the Subject's request. By initiating these efforts, the University assumes no duty to defend or prosecute any lawsuit on behalf of or against any person involved in the allegation, Inquiry, and Investigation.

4. Restoring the Reputation of Others. Upon request, the University will make positive and reasonable efforts to protect and restore the position and reputation of any Complainant, witness, or committee member and to counter any retaliation against them. By initiating these efforts, the University assumes no duty to defend or prosecute any lawsuit filed on behalf of or against any person involved in the allegation, Inquiry, and Investigation.

5. Sanctioning Persons Who Bring Malicious Allegations. If it is demonstrated that allegations of research misconduct were made under malicious or dishonest circumstances, the Provost will bring appropriate action against the persons involved. No sanctions will be imposed on those persons who in good faith bring allegations later determined to be unsubstantial.

6. Maintaining Records of the Investigation. A sealed permanent record of Investigation Committee reports, exhibits, minutes of meetings, committee notes, all evidence and other materials (regardless of form) generated during an Investigation will be securely kept by the Director (ORC) for a period of at least three years after completion of the Investigation or such longer period as may be required by sponsor policy. These records shall be released only as may be required by law or sponsor policy or regulation, or to reopen all or part of an Investigation. If required by sponsor policy, the records of the Investigation will be made available to sponsor(s) of the project in which the misconduct or alleged misconduct occurred.

7. Indemnification of Inquiry and Investigation Committee Members: The University will indemnify each member of Inquiry and Investigation Committees from any liability associated with their participation on such committees in accordance with Article VIII of the University Bylaws (captioned “indemnification of Trustees, Officers and Employees”)..

8. Interpreting this Policy: Consistent with the provisions of this Policy, the Provost and Vice Provost for Research shall have the authority to supplement and clarify applicable procedures, provided that notice is given to persons affected by such actions.