United States Department of Agriculture
Research, Education and Economics

ARS ❑ CSREES ❑ ERS ❑ NASS
Policies and Procedures

Title: Research Misconduct

Number: 129.0 - ARS

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Originating Office: Human Resources Division
Employee Relations Branch
AFM/ARS

This Replaces: P&P 129.0 dated 12/14/92

Distribution: All ARS Employees

This P&P describes the procedures to be followed for reporting and assessing allegations of research misconduct.

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1. INTRODUCTION

These policies and procedures replace those of the same title dated December 14, 1992.

These policies and procedures address research misconduct and provide guidance to employees on the methods and principles for assessing allegations of research misconduct. These policies and procedures apply to all employees of the Agricultural Research Service (ARS), who are involved in proposing, conducting, reporting, and administering research. Research misconduct does not include honest error or differences of opinion. It does not address other forms of misconduct, such as the unethical treatment of human research subjects or mistreatment of laboratory animals used in research, nor does it supersede criminal or other civil law. Often, behavior associated with research misconduct also triggers the applicability of other laws, these procedures do not limit ARS from pursuing matters under separate authorities. Employees of ARS Grantors, Cooperators, or Contractors are subject to the research misconduct policies and procedures of the employing institution. ARS policies and procedures are applicable only if the employee's institution does not have established policies and procedures regarding research misconduct.

Research misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results or other practices that seriously deviate from those that are commonly accepted within the research community.

A finding of research misconduct requires that:

- there be a significant departure from accepted practices of the relevant research community;
- the misconduct be committed intentionally, or knowingly, or recklessly; and
- the allegation be proven by a preponderance of evidence.

2. BACKGROUND

Advancements in research depend upon the accuracy and reliability of the research record, as do the benefits associated with them. Sustained public trust in federally funded research also requires confidence in the research record and in the processes involved in its ongoing development.

In order to preserve the freedom to pursue and contribute to research, ARS must maintain the general public's confidence in its findings and accomplishments. While instances of research misconduct are rare, ARS must ensure and foster high ethical standards for the conduct of research, and adhere to consistency in their policies and procedures for responding to allegations of research misconduct.

In the interest of achieving greater uniformity in federal agencies conducting research, the National Science and Technology Council (NSTC) initiated the development of a research misconduct policy for federal agencies. The Office of Science and Technology Policy (OSTP) provided leadership and coordination. The final policy was published in the Federal Register, Volume 65, Number 235, December 6, 2000 (pages 76260-76262). These ARS policies and procedures are consistent with and embody all the principles and criteria of the Federal policy.

3. AUTHORITY

- Office of Science and Technology Policy
  Federal Register, Volume 65, Number 235, December 6, 2000
- USDA Departmental Regulation (DR) 1710-2
- USDA, Office of Inspector General, 7 CFR 2610.1(c)(4)(ix)

4. GLOSSARY

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

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.

Inquiry means information gathering and initial fact-finding to determine whether an allegation or apparent instance of research misconduct warrants an investigation.

Investigation means the formal examination and evaluation of all relevant facts to determine if research misconduct has occurred and, if so, to determine the responsible person and the seriousness of the conduct.

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

Research record means any data, document, computer file, or other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of research misconduct. A research record includes, but is not limited to, grant or cooperative agreement applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes, correspondence; videos, photographs; film; biological materials; manuscripts and publications; equipment use logs; and laboratory procurement records.

5. POLICY

All employees should pursue and uphold the highest scientific ethical standards in the conduct of research. To the extent possible consistent with a fair and thorough investigation and as allowed by law, knowledge about the identity of employees charged with research misconduct and employees alleging research misconduct will be limited to those who need to know. Records maintained or created by the agency during the course of responding to an allegation of research misconduct are exempt from disclosure under the Freedom of Information Act (FOIA) to the extent permitted by law and regulation.

A response to an allegation of research misconduct will usually consist of several phases, including: (1) an inquiry - the assessment of whether the allegation has substance and if an investigation is warranted; (2) an 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 other appropriate remedy; and (3) adjudication - during which recommendations are reviewed and appropriate corrective actions determined.

6. PROCEDURES

The Administrator will appoint a Committee on Ethics in Science (CEIS). The CEIS will be chaired by an Associate Deputy Administrator, National Program Staff; other

members will consist of the Chief, Employee Relations Branch (ERB), and one representative from each ARS Area Office. Members of the CEIS are selected based on their expertise and will have no unresolved conflicts of interests in order to ensure fairness throughout all phases of the process.
NOTE: Initial Area level appointments to the CEIS will be staggered for 2 or 3 year periods to assure historical continuity of subsequent committees. Succeeding appointments will be made for a period not-to-exceed 3 years.

The Administrator may reassign a CEIS member at any time and/or appoint individual investigation panels. The Administrator may also make the final decision regarding findings of research misconduct after considering all relevant recommendations of the CEIS and reports of any individual investigation panel.

ARS Employees who receive or learn of an allegation of research misconduct should immediately report the allegation to the appropriate Area CEIS representative. The CEIS representative will promptly engage in an assessment of the allegation to determine whether it falls within the definition of research misconduct and provides sufficient information to proceed with an inquiry.

7. INQUIRY

Reasonable time limits for the conduct of the inquiry, investigation, adjudication, and appeal phases (if any) with allowances for extensions where appropriate, will provide confidence that the process will be well managed.

Upon receipt of a report of alleged research misconduct, the Area CEIS Representative will determine whether the facts presented warrant referral to the CEIS for consideration of further inquiry or investigation.

The Area CEIS Representative will advise the complainant not to discuss the allegations with anyone except as required by a valid court order, law enforcement officials, or USDA Office of Inspector General (OIG) investigators and/or members of the CEIS or other authorized ARS officials.

The Area CEIS Representative, upon making a determination that a report of alleged misconduct warrants referral, shall notify the CEIS Chairperson within 24 hours of such a determination. The CEIS Representative shall also notify the appropriate Area Director that a report of alleged research misconduct has been received and reported to the CEIS for further consideration. At this time, the CEIS Chairperson in consultation

with the Area Director will determine what other information may be disclosed concerning the matter and to whom such disclosures will be made. In most cases, in addition to Area representatives, only the employee's immediate Research Leader and/or Center Director will be informed of the nature of the allegation. However, upon receipt of a request for information made pursuant to the Freedom of Information Act (FOIA), the CEIS Chairperson may be required to consult with the ARS FOIA Coordinator. However, most records maintained during the course of responding to an allegation of research misconduct are exempt from disclosure under the FOIA to the extent permitted by law and regulation.

Within 14 calendar days of notifying the CEIS Chairperson of the receipt of a report of alleged misconduct, the Area CEIS Representative shall submit a formal report to the CEIS Chairperson, detailing the allegations of the case as known.

Within 14 calendar days of receiving the detailed report from the Area CEIS Representative, the CEIS Chairperson will make a determination as to whether further inquiry is necessary; whether or not there is sufficient information to make a determination that an investigation is warranted; or whether a meeting of the full committee is required in order to consider the allegations of the case prior to making a determination as to whether to initiate an investigation. Should the Chairperson conclude that investigation is not warranted, the matter will be closed.

8. INVESTIGATION

Should the CEIS Chairperson determine that the allegations raised require further consideration, the case will be brought to the attention of the Administrator along with the Chairperson's recommendation that an investigation panel be appointed to further consider the matter. The recommendations of the Chairperson will include recommendations for members of the investigation panel. If the Administrator determines that an investigation is warranted and that a panel will be established, the panel will consist of two Area CEIS Representatives (not from the same Area as that in which the allegation is being investigated), two ad hoc members selected for their expertise relevant to the discipline to be evaluated, and a representative from the Employee Relations Branch. Upon appointment by the Administrator, the panel will conduct fact-finding, and provide the Administrator with a report of findings and recommendations within 120 calendar days from the date of appointment.

Upon a determination by the Administrator that a suspected violation of law or Agency regulation has occurred which would require intervention and investigation by OIG, the

CEIS Chairperson will notify OIG. ARS officials will follow OIG instructions on what action to take to avoid jeopardizing any subsequent investigation. ARS personnel will cooperate fully with OIG.

9. DISPOSITION

The Administrator will review the investigation report and, in consultation with the panel, make a determination as to whether to proceed with administrative action against the employee(s). At any stage of the process if information indicates possible criminal misconduct, the matter shall be immediately referred to the Department of Justice or USDA, OIG for investigation.

In deciding what administrative action is appropriate, the Administrator will consider the seriousness of the misconduct, including, but not limited to, the degree to which the misconduct was knowing, intentional, or reckless; was an isolated event or part of a pattern; or had significant impact on the research record, research subjects, other researchers, institutions, or the public welfare.

If a determination is made that no further action is warranted, the CEIS Chairperson, on behalf of the Administrator, shall notify the employee of this decision in writing. No documentation shall be placed in the official personnel file of the employee. All records related to inquiries and investigations will be maintained by the ERB in accordance with records retention schedules.

Diligent efforts shall be undertaken, as appropriate, to restore the reputation of the employee alleged to have engaged in misconduct when allegations are not confirmed, and to protect the positions and reputation(s) of those who, in good faith, made the allegation. A determination by the Administrator that an allegation of scientific misconduct was malicious or frivolous, could result in disciplinary action being taken against the accuser.

10. SUMMARY OF RESPONSIBILITIES

ARS employees will:

- Report instances of suspected research misconduct in order that such instances may be evaluated fully and expeditiously by the CEIS and the Administrator.

- Cooperate in any inquiry/investigation conducted by the Agency, including the provision
of signed, sworn statements.

ARS Area Directors will:

- Nominate an ARS scientist from within the Area to serve a 3 year term as the Area CEIS Representative. Nominees must be senior level scientists recognized by their peers for having made significant contributions to their field of research, for fostering good research practices, and for possessing high ethical and scientific standards.

- Actively support the CEIS in its inquiries/investigations by providing access to staff; scientific data, files, and reports by authorized investigators; and ensure compliance with recommendations and determinations of the CEIS and Administrator involving instances of research misconduct.

- Assure implementation of the Administrator's decisions regarding findings of research misconduct.

CEIS will:

- Make recommendations to the Administrator to foster the principles embodied in the Code of Scientific Ethics of the ARS (Exhibit 1).
- Make recommendations to the Administrator regarding the need for investigations of allegations of research misconduct.

- Recommend potential investigation panel members for appointment by the Administrator in response to allegations of research misconduct.

CEIS Chairperson will:

- Determine what information may be disclosed concerning allegations of research misconduct and to whom such disclosures will be made.

- Determine whether sufficient information exists of possible research misconduct to warrant an investigation.

- Notify Department of Justice and/or OIG of ARS intent to pursue an investigation and serve as the ARS liaison with these authorities.

- Take necessary and appropriate action to arrange for the seizure and security of all research materials to be examined by the panel in conducting the investigation. However, no such seizures will be made without the concurrence of OIG.

ARS Area CEIS Representatives will:

- Determine if allegations arising within the jurisdiction of their respective Area offices concern matters within the scope of ARS policy and procedures on research misconduct.

- Report allegations meeting the criteria of ARS policy on research misconduct to the appropriate Area Director, and the CEIS Chairperson, within 24 hours of such determination.

- Conduct inquiries and make recommendations to the CEIS Chairperson, regarding the need for investigations.

- Educate Area staff and advise the Area Director on matters concerning policy and procedures for handling allegations of research misconduct.

Edward B. Knipling
Acting Administrator

Exhibit 1
Code of Scientific Ethics

CODE OF SCIENTIFIC ETHICS
for the
Unites States Department of Agriculture
Agricultural Research Service

I dedicate myself to the pursuit and promotion of beneficial scientific investigation, consistent with the mission of the Agricultural Research Service.

I will never hinder the beneficial research of others.

I will conduct, discuss, manage, judge, and report science honestly thoroughly, and without conflict of interest.

I will encourage constructive critique of my personal science and that of my colleagues, in a manner that fosters harmony and quality amid scientific debate.

I recognize past and present contributors to my science and will not accept unwarranted credit for the accomplishments of others.

I will maintain and improve my professional skills and be a mentor to others.

I will ensure safety and humane treatment of human and animal subjects and will prevent abuse of research resources entrusted to me.