

## Research Misconduct Policy and Procedures

Revised July 2013

Updated Position Titles February 28, 2020

### **Background:**

Each institution, which applies for or receives a research, research-training, or research-related grant or cooperative agreement under the Public Health Services Act must establish administrative policies and procedures required by the Final Rule 42 Code of Federal Regulation (CFR) Part 93 and must comply with the requirements of the Final Rule as established at 69 FR 20777. California State University, East Bay (CSUEB) is such an institution. The Final Rule addresses procedures that deal with instances of possible research misconduct. CSUEB has an obligation to report incidents of alleged research misconduct as well as an obligation to respond to such allegations in accordance with established university policy and procedures. In cases where research misconduct involves federal funding, the university must adhere to additional regulations, policies, procedures and reporting requirements.

One of the primary missions of the University is to support a diverse academically rich, culturally relevant, learning experience for the student body. The University offers an environment in which research can be conducted to further this mission, which relies heavily on individuals to exercise their integrity in carrying out their scientific and scholarly activities. Senior faculty, principal investigators, and others in positions of responsibility for the conduct of research are expected to exercise reasonable supervision of those under their direction to ensure the integrity of the research being conducted.

While we strive to make the best efforts to maintain academic integrity, departures from accepted standards of integrity and honesty may occur, and the University must be prepared, through the adoption of policies and procedures, to pursue and resolve situations in which research misconduct arise. In accordance with university policy and procedures, ORSP assumes primary responsibility for investigating and resolving allegations of scientific and scholarly misconduct by campus faculty, staff, and students.

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), campus policy applies to all individuals engaged in University research whatever the funding source.

Because of the importance to address issues surrounding research misconduct at the University and because significant expertise is required to address such issues, the University has established policies and procedures to address reports of misconduct.

**Reporting Research Misconduct:**

The Final Rule mandates timely responses to allegations of such misconduct that will protect the interests of all parties involved, including those who might be misled by publication or communication of fraudulent data or harmed by fraudulent actions.

The following procedures will be followed in cases where evidence exists or allegations have been made regarding research misconduct and will identify the obligations of complainant, respondent and other CSUEB officials involved in investigations of such misconduct with respect to confidentiality.

Complainant(s) who believe an act of research misconduct by a CSUEB faculty, staff, or student has occurred must inform in writing the Associate Vice President, Office of Research and Sponsored Programs and the Associate Vice Provost, Academic Resources and Planning.

Respondent(s) will be informed of complaint and of procedural steps necessary to carry out a thorough investigation. The Associate Vice President of the Office of Research and Sponsored programs will notify the respondent of the proceedings and provide opportunities for the respondent to review/comment/respond to allegations, evidence and committee reports.

**Investigation:**

The Associate Vice President of the Office of Research and Sponsored Programs shall consult with the dean of the school and the chair of the department of the respondent in which the alleged misconduct has occurred and shall immediately appoint a committee to conduct a review of the charges. This committee shall consist of three faculty (one from the relevant department, one from the school outside the department and one from a different school), the school dean, and an administrator from the Office of Research and Sponsored Programs. The Associate Vice President of the Office of Research and Sponsored Programs will notify the involved parties of the charges and discuss their nature. The committee may consult with others on a confidential basis as needed. The committee's review shall be sufficiently thorough so that the President of the University is able to determine whether or not a formal charge is warranted. The Associate Vice President of the Office of Research and Sponsored Programs will provide the Provost of the University with a summary of the charges and results of the committee's findings from the review not later than one calendar month after the formation of the committee. The President will then decide whether formal charges will be filed under appropriate disciplinary procedures and whether disclosure of those charges to the appropriate administrative unit (faculty, staff or student) in the University will be made.

In the course of obtaining necessary information in the review process, the professional reputation of complainant, respondent and all parties involved, as well as the interests of the public and those who might be harmed by the alleged misconduct, must be carefully protected. Accordingly, the review shall be conducted as quickly as possible and every effort shall be made

to maintain confidentiality. Only those directly involved in the review are to be aware that it is in progress or to have access to any information revealed in the course of the review.

Institutional members may not retaliate in any way against complainants, respondent, witnesses or committee members. Institutional members should immediately report any alleged or apparent retaliation to the Associate Provost who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual acts of retaliation.

**Notification:**

In the event the president finds that formal charges are warranted, disciplinary procedures set forth in Article 19 of the Memorandum of Understanding (MOU), The California State University, and in the CSUEB Faculty Handbook will be followed. The Office of Research Integrity (ORI) at PHS shall be notified that disciplinary action has been initiated. The University will conclude those disciplinary procedures in a timely fashion as outlined in the MOU. The established rules governing confidentiality shall apply. Results of the disciplinary procedures shall be reported to the ORI and shall be maintained for three (3) years; if there is reasonable indication of possible criminal violations, ORI will be notified within 24 hours. The Associate Vice President, Office of Research and Sponsored Programs, shall take appropriate administrative actions to protect federal funds and to ensure that the purposes for which the funds were granted are being carried out.

The CSUEB Office of Research and Sponsored Programs will at all times during these misconduct procedures be vigilant with respect to the professional reputations of all parties involved. The University shall recognize an obligation to protect the positions and reputations of those persons who, in good faith, make allegations of scientific misconduct, and those against whom allegations of misconduct are not confirmed.

**Definitions:**

Complainant—The complainant is the person who brings any allegations forward under this policy. The complainant is responsible for making all allegations in Good Faith, for maintaining confidentiality; and for cooperating with any investigation.

Fabrication—Fabrication is making up data or results and recording or reporting them.

Falsification—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.

Institution:--- means any individual or entity that applies for or receives funding (Federal, Non-Federal, or other) for an activity or program that involves the conduct of Research (see definition below). This term includes, but is not limited, to colleges and universities and their auxiliaries. In this case, CSUEB and CSUEB Foundation Inc. shall be considered the institution.

Institutional Member(s) --- Any person who is employed by, is an agent of, or is affiliated by contract or agreement with CSUEB. May include but are not limited to officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors, and subawardees, and their employees.

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

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

Research—Research is a systematic investigation designed to develop or contribute to generalizable knowledge and includes all basic, applied, and demonstration research in all fields of science, engineering, and mathematics. This includes, but is not limited to, research in economics, education, linguistics, medicine, psychology, social sciences, statistics, and research involving human subjects and animals.

Research Misconduct means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. Research misconduct at CSUEB policy includes failure to comply with requirements for the protection of human or animal research subjects. It does not include honest error or honest differences in interpretations or judgments of data. 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(s) be proven by a preponderance of the evidence.

Respondent—The respondent is the person against whom allegations are brought. The respondent is responsible for maintaining confidentiality and cooperating with ORSP and with the University concerning inquiries, investigations or reviews of alleged or actual acts of research of misconduct.