

POLICY

University: ☒	Division: Academic Affairs
Subject: Responding to Allegations of Scholarly Misconduct	
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Responsible University Official: Executive Vice President and Provost	
Responsible Office: Office of Research and Sponsored Projects	

1. INTRODUCTION

In keeping with the primacy of the search for truth in Jesuit education, Loyola Marymount University (LMU) is committed to maintaining a scholarly environment that promotes the highest ethical standards in the conduct of research and any creative activity. The University strongly condemns misconduct in any aspect of research or creative activity and will inquire into and, if necessary, investigate and resolve promptly and fairly all instances of alleged misconduct in accordance with this policy .

Federal regulations require that institutions applying for or receiving federal sponsored research funding have an established administrative process for reviewing, investigating and reporting allegations of research misconduct [40 CFR Part 50 and 42 CFR 93]. This policy outlines Loyola Marymount University’s administrative process in response to an allegation of research misconduct in all areas of research and creative activity, regardless of the funding source.

2. POLICY STATEMENT

General Policy and Principles

A. Community Responsibilities

Each member of the Loyola Marymount University community is responsible for reporting what they believe to be misconduct by faculty, research personnel (including temporary or adjunct members of the research staff), and students. Anyone who believes that a member of the LMU community has engaged in an activity that could be construed as research misconduct must report the matter in writing, if possible, to the Dean of their college or school. The University expects that all members of the LMU community will cooperate with the individuals directing any proceeding pursuant to these guidelines and will provide any and all information requested by a person charged under these guidelines with the responsibility of investigating an allegation of research misconduct.

B. Cooperation with Research Misconduct Proceedings

Institutional members will cooperate with the RIO and other institutional 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 institutional officials.

C. Responsibilities of Persons Engaged in Research Activities

All personnel performing research of any type are responsible for maintaining the highest ethical standards in their research.

1. Responsibilities of Persons in Supervisory Positions

Principal Investigators are responsible for (1) assuring that these standards are communicated to and followed by all who work under their supervision, directly or indirectly; (2) assuring the validity of all information communicated by their research groups; and (3) assuring adequate citation of contributions from those within and without each research group.

2. Responsibilities of Persons Who Collaborate on Research Projects

Co-authorship should reflect involvement and responsibility for work reported. 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.

D. Responsibilities of Administrators

The Executive Vice President and Provost (“Provost”) and the relevant Dean are charged with ensuring the implementation of these guidelines and assuring the integrity of research at Loyola Marymount University. They will disseminate the guidelines, and, when an allegation of misconduct is made, they will ensure that the appropriate review procedures are undertaken promptly.

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

For the purpose of this Policy, a person is understood to be involved in filing or reviewing an allegation of research misconduct if they make an allegation, is the subject of an allegation, is a witness, Dean, member of a committee or is in any way informed of or consulted concerning the allegation. It is intended that this provision be read as broadly as possible.

Confidentiality. To protect the reputation and professional and institutional standing of individuals against whom misconduct is alleged, persons who participate in any way in the filing of an allegation under these guidelines shall maintain all information about the matter in absolute

confidence. Unless the subject matter being discussed is public knowledge, such persons should only discuss the matter in the context of the procedures detailed in these guidelines. Any inquiries about the matter from the press and other people both inside and outside the LMU community should be directed to the Provost.

Persons participating in the review of an allegation of research misconduct shall also protect, to the maximum extent possible, the privacy of those who in good faith report suspected research misconduct. The identity of the person who reports suspected research misconduct will not be released to persons other than those specified in these guidelines unless maintaining such anonymity would seriously undermine the integrity and efficacy of the inquiry or investigation.

The RIO shall, as required by 42 CFR 93.108 will: (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.

Conflict of Interest. Prior to participation in any aspect of an inquiry or investigation, a person who will be involved in any capacity will disclose to the Dean in writing the existence of (a) a conflict of interest, or (b) any facts which might cause they 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 ad hoc committee established under these guidelines or of the Research Integrity Board on Misconduct in Research established under these guidelines. The Provost will be responsible for determining how to deal with conflicts of interest within the context of the proceeding.

To this Policy, a person is understood to be involved in filing or reviewing an allegation of research misconduct if they make an allegation, is the subject of an allegation, is a witness, Dean, member of a committee or is in any way informed of or consulted concerning the allegation. It is intended that this provision be read as broadly as possible.

Retaliation. Neither the person alleged to have committed research misconduct nor any other member of the LMU community will retaliate in any way against a person who reports suspected research misconduct. 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.

F. 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 institution. Respondents may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice.

G. Interim Administrative Actions and Notifying ORI 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 equipment, or the integrity of the PHS supported research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and ORI, 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. The RIO shall, at any time during a research misconduct proceeding, notify ORI immediately if they have reason to believe that any of the following conditions exist:

- Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- HHS resources or interests are threatened;
- Research activities should be suspended;
- There is a reasonable indication of possible violations of civil or criminal law;
- Federal action is required to protect the interests of those involved in the research misconduct proceeding;
- The research misconduct proceeding may be made public prematurely and HHS action may be necessary to safeguard evidence and protect the rights of those involved; or
- The research community or public should be informed

V. PROCESS

A. General

Throughout the process, Loyola Marymount University will:

- Protect to the extent reasonably possible and consistent with necessary inquiry processes the privacy of those who report apparent misconduct;
- Afford the subject(s) of an allegation a reasonably prompt inquiry and to the extent consistent with the necessary inquiry processes reasonable privacy in connection with the inquiry.

- Take appropriate action in connection with the inquiry findings both in response to determined misconduct as well as against those, if any, who make allegations of research misconduct in bad faith; and,
- Take appropriate action respecting any member of the University community who retaliates against someone who reports allegations of research misconduct.

Throughout the process, the subject of the allegation has an obligation to:

- Provide data, records, and other documents that they have in their possession, have access to or knowledge of, as requested by the University to ensure a fair and thorough review; and,
- Cooperate fully with the Preliminary and Formal Inquiry(ies).

B. Receipt of an Allegation

A. Contents of Allegation Allegations of research misconduct should include a detailed description of the alleged misconduct, the individual(s) who is(are) the subject(s) of the allegation and supporting evidence or documentation.

B. Reporting Reports of alleged research misconduct are to be delivered to the appropriate Dean in person or in a sealed envelope delivered to the Dean marked “CONFIDENTIAL COMPLAINT.” The Dean will make a preliminary evaluation of the alleged misconduct and determine whether it merits further action. In performing this evaluation, the Dean may consult privately with others as appropriate. The assessment period should be brief, preferably concluded within a week.

C. Non-Credible Allegation If the Dean concludes that the allegation is not creditable, the allegation will be closed and dismissed without further proceeding. If the matter is dismissed at this juncture, no record of it will be maintained other than a sealed written report stating the reasons for the dismissal. This sealed record of the complaint, dismissal and notification to the complainant (see D. below) shall be maintained in private and separate from any personnel records by the Dean’s Office for a period of three years. It is not to be noted in any personnel or other records of the subject of the allegation OR the complainant. This sealed record is, however, subject to review by the Provost in connection with any appeal or similar proceeding.

D. Notification of Non-Action The Dean will notify the complainant in writing of the determination that the allegation was determined to be not creditable. The complainant may at this point appeal this determination to the Provost.

E. Notification of the Provost Upon receipt of a creditable report of possible research misconduct, the Dean will immediately inform the Deciding Official of the substance of the allegation(s).

F. Preliminary Inquiry The Deciding Official will determine whether the allegation a) falls within the scope of this policy and recommend that an Assessment and Preliminary Inquiry be carried out, or b) falls outside the scope of this policy and, therefore, no further action is to be

taken.

VI. CONDUCTING THE PRELIMINARY ASSESSMENT AND INQUIRY

A. Initiation and Purpose of the Inquiry

Upon receipt of the allegation from the Deciding Official the RIO will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

B. Notice to Respondent; Sequestration of Research Records

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must 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. The RIO may consult with ORI for advice and assistance in this regard.

C. Appointment of the Inquiry Ad Hoc Committee of the URC

The RIO, in consultation with other institutional officials as appropriate, will inform the University Research Committee Chair and the Associate Vice Provost of Research about the allegation, the Chair will appoint an ad hoc committee, as soon after the initiation of the inquiry as is practical. The Associate Vice Provost will serve as an ex officio member of the Ad Hoc committee of the URC. The inquiry ad hoc committee must consist of tenured individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. The Provost and Faculty Senate will jointly appoint an advisor to guide the respondent through the process. The advisor will not be a member of the committee. It is traditionally someone who has served on the committee for three years.

D. Charge to the Inquiry Committee and First Meeting

The RIO in collaboration with the ex-officio will prepare a charge for the inquiry committee that:

- Sets forth the time for completion of the inquiry;
- Describes the allegations and any related issues identified during the allegation assessment;
- States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;
- States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and is within the jurisdictional criteria of 42 CFR 93.102(b); and, (2) the allegation may have substance, based on the committee's review during the inquiry.
- Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and 42 CFR 93.309(a).

At the Preliminary committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.

E. Preliminary Inquiry Process

The Preliminary inquiry ad hoc committee will normally interview the complainant, the respondent, and key witnesses as well as examining relevant research records and materials. Then the Preliminary inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this policy and 42 CFR 93.307(d). The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the institution shall promptly consult with ORI to determine the next steps that should be taken.

F. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the

DO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60-day period. The respondent will be notified of the extension.

VII. THE PRELIMINARY INQUIRY REPORT

A. Elements of the Preliminary Inquiry Report

A written Preliminary inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the PHS support, including, for example, grant numbers, grant applications, contracts and publications listing PHS support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant.

Institutional counsel should review the Preliminary report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the inquiry committee. The inquiry report should include: the names and titles of the committee members and experts who conducted the inquiry; a summary of the inquiry process used; a list of the research records reviewed; summaries of any interviews; and whether any other actions should be taken if an investigation is not recommended.

B. Notification to the Respondent and Opportunity to Comment

The institution shall notify the complainant whether the inquiry found an investigation to be warranted and provide relevant portions of the inquiry report to the complainant for comment within 10 days, and include a copy of or refer to 42 CFR Part 93 and the institution's policies and procedures on research misconduct. In this connection, the complainant should be advised of the privacy and confidentiality provisions of this policy and process.

Any comments that are submitted by the respondent or complainant will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.

C. Institutional Decision and Notification

1. Decision by Deciding Official The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination.

2. Notification to ORI Within 30 calendar days of the DO's decision that an investigation is warranted, the RIO will provide ORI with the DO's written decision and a copy of the inquiry report. The RIO will also notify those institutional officials who need to know of the DO's

decision. The RIO must provide the following information to ORI upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation.

3. Documentation of Decision Not to Investigate If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by ORI of the reasons why an investigation was not conducted. These documents must be provided to ORI or other authorized HHS personnel upon request.

VIII. CONDUCTING THE FORMAL INQUIRY / INVESTIGATION

A. Initiation and Purpose

Should the DO determine in a Preliminary Inquiry into the allegation that it falls within the scope of this policy, they will refer the matter to the Chair of the Board on Research Integrity for a Formal Inquiry. The Board will complete its Formal Inquiry within 90 days and a report of findings will be submitted to the DO.

The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. Under 42 CFR 93.313 the findings of the investigation must be set forth in an investigation report.

B. Notifying ORI and Respondent; Sequestration of Research Records

On or before the date on which the investigation begins, the RIO must: (1) notify the ORI Director of the decision to begin the investigation and provide ORI a copy of the preliminary inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence

needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the institution's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

C. Discussion with Subject

The DO or their designee will meet with the subject of the allegation to notify the subject of the charges and the University process for inquiring into and investigating the allegation(s). The subject(s) of the allegation(s) will receive timely written notification from the DO regarding substantive allegations against them and a description of all such allegations.

D. Research Integrity Board and Chair

The Faculty Senate will appoint the Research Integrity Board, a standing committee of six tenured faculty members, one from each of the university's colleges and schools, to be known as the LMU Board on Research Integrity (Board or BRI). Appointments of the six members will be for staggered three-year terms, which may be renewable.

The members of the Board will select the Chair, who will maintain the integrity of the process, ensure its confidentiality, and ensure that necessary and appropriate expertise is secured to carry out a thorough and fair evaluation of the relevant evidence. The Research Integrity Chair will be charged with handling the procedural requirements involved and is sensitive to the varied demands made upon those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith.

E. Charge to the Committee and the First Meeting

1. Charge to the Committee

The BRI chair and the RIO will define the subject matter of the investigation in a written charge to the committee that:

- Describes the allegations and related issues identified during the inquiry;
- Identifies the respondent;
- Informs the committee that it must conduct the investigation;
- Defines research misconduct;
- Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;

- Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the research misconduct is a significant departure from accepted practices of the relevant research community; and (3) the respondent committed the research misconduct intentionally, knowingly, or recklessly; and
- Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and 42 CFR 93.313.

2. First Meeting

The Board Chair will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this statement of policy and procedures and 42 CFR Part 93. The RIO will be present or available throughout the investigation to advise the committee as needed.

F. Formal Inquiry / Investigation Process

If the Board decides to recommend a finding of misconduct, it should also make recommendations concerning:

- (a) The seriousness of the misconduct, including (but not limited to) consideration of the degree to which the misconduct was intentional or reckless;
- (b) Whether it was an isolated event or part of a pattern; or
- (c) Whether it had significant impact on the research record, research subjects, other researchers, institutions, or the public welfare.

The Formal Inquiry will examine all available relevant documentation, including but not limited to research data and proposals, publications, written and electronic correspondence, and memoranda of telephone calls. The Board should interview any individuals with relevant information, including both the individual(s) who raised the allegation(s) and the subject of the allegations, if possible.

Complete summaries of the interviews should be prepared and, upon request, be provided to the interviewed person for comment or revision. Summaries and comments by the interviewed persons should be included as part of the Formal Inquiry file. The Board will be expected to pursue its work diligently, carrying it through to completion, and identify whether the allegation(s) were made in good faith.

IX. FORMAL INQUIRY / INVESTIGATION REPORT

A. Elements of the Report

The BRI are responsible for preparing a written draft report of its recommended findings for the DO. The report will describe:

- (a) Policies and procedures under which the Formal Inquiry was conducted,
- (b) How and from where relevant information was obtained; Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed.,
- (c) Recommended findings and the basis for those recommendations, for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that they did not engage in research misconduct because of honest error or a difference of opinion; (3) identify the specific PHS support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with non-PHS federal agencies.
- (d) The actual text or transcript of interviews with or written statements from any individual found to have engaged in misconduct,
- (e) Describes and documents the PHS support, including, for example the numbers of any grants that are involved, grant applications, contracts, and publications listing PHS support;
- (f) A description of any recommended sanction, and
- (g) An assessment as to whether the allegations were made in good faith.

B. Right of Comment by the Subject of the Allegation

The subject of the allegation of research misconduct will be notified of the finding(s) and shall be provided with a copy of the Board's Report. The respondent will be encouraged to respond to the finding(s) in writing and will be given 30 calendar days to respond. The subject's comments will be included in their entirety in the text of the Board's final report.

In distributing the draft report, or portions thereof, to the respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.

C. Completion of the Formal Inquiry

Completion of the Inquiry includes preparing the report of findings and obtaining comments within ninety (90) calendar days. If the University plans to terminate a Formal Inquiry for any reason without completing all relevant requirements under this policy, and federal agency support is involved, the RIO will report the termination to the appropriate government agency (or agencies). The RIO will secure all the records for a period not less than three years after termination of the Formal Inquiry.

D. DO Determination

The Chair of the Board will forward the finding in a Committee report to the DO. The Committee's report is only a recommendation to the DO. The DO will complete the investigation by determining whether or not to affirm the recommendation(s) by the Committee, or to take different action.

E. Resolution

Resolution of the Formal Inquiry by the DO may involve a finding that either the allegation(s) of misconduct cannot be substantiated or further action is necessary, and that either formal proceedings for dismissal should commence or other sanctions applied.

1. Formal Actions and Proceedings for Research Misconduct

a) Faculty In the case of a faculty member with tenure or whose contract or appointment has not expired, if the DO determines that formal proceedings for dismissal should commence, the DO will make a formal statement of charges. Dismissal is defined in the LMU Faculty Handbook. The faculty member may appeal to the Grievance Committee or to the Board of Review [LMU Faculty Handbook. The President will retain ultimate decision-making authority and the discretion to accept or reject recommendations].

b) Staff or Other Non-Faculty Employee In the case of a staff member or other nonfaculty employee whom the DO finds following the Formal Inquiry to have committed research misconduct, the DO will take appropriate disciplinary action, up to and including termination. When notified of the disciplinary action, a non-faculty employee may file a written appeal with the DO before two weeks have elapsed. The DO must respond to the appeal, generally within one month of receipt and must notify the appellant of their decision.

c) Upon Failure to Find Misconduct Following a Formal Inquiry, if the DO determines that there has been a failure to substantiate an allegation of research

misconduct, the University will make appropriate and reasonable efforts to protect the reputations of the persons alleged to have engaged in the misconduct.

d) Bad Faith Allegation If the Board or the DO determines that the allegations were made in bad faith, the University, following institutional policies, will seek appropriate remedial action against the complainant, which may include suspension or termination of a University employee, as well as criminal and/or civil legal action.

e) Privacy In all cases, the University will undertake reasonable efforts to protect the positions and reputations of those persons who, in good faith, make allegations, submit evidence, or otherwise participate in the process.

F. Appeals

In the Jesuit practice of restorative justice and in alignment with LMU's mission, the respondent may appeal the decision of the institution's findings of research misconduct. If such an appeal is provided for, it must be completed within 120 days of its filing, unless ORI finds good cause for an extension, based upon the institution's written request for an extension that explains the need for it. The appeals process is outlined in the faculty handbook, and will engage An Independent Review Committee (IRC) comprised of five Full Professors from five Colleges/Schools, will be appointed as a standing committee. The IRC is charged with reviewing the merits of the appeal request based on evidence provided by the candidate in support of the stated ground(s) for appeal. An IRC recommendation in favor of the candidate is an affirmation by the IRC of the merit of the grounds of the appeal.

X. Institutional Administrative Actions

If the DO determines that research misconduct is substantiated by the findings, they will decide on the appropriate actions to be taken, after consultation with the relevant Dean and BRI Chair. The administrative actions may include:

- Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
- Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
- Restitution of funds to the grantor agency as appropriate; and
- Other action appropriate to the research misconduct.

XI. OTHER CONSIDERATIONS

A. Termination or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent's institutional 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 institution's responsibilities under 42 CFR Part 93.

If the respondent, without admitting to the misconduct, elects to resign their position after the institution 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.

B. Restoration of the Respondent's Reputation

Following a final finding of no research misconduct, including ORI concurrence where required by 42 CFR Part 93, the DO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the Board Chair and 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. Any institutional actions to restore the respondent's reputation should first be in consultation with the Respondent and the DO.

C. Protection of the Complainant, Witnesses, and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution or ORI determines that research misconduct occurred, the University must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the Board and RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

XI. REPORTING

A. Notification

When Loyola Marymount University receives an allegation of research misconduct that involves federally funded research (or an application for federal funding) the DO will summarize the Formal Inquiry findings, the disciplinary action, if any, and inform the RIO to submit a report to the relevant agency or agencies.

If it is necessary to notify the appropriate government agency of a finding of research misconduct, all other funding sources including Foundation support of the same scholarly activity that is the subject of the Formal Inquiry will notified.

1. Reasons for Immediate Notification

The RIO with approval of the DO will notify the appropriate government agency and any and all partners and collaborators in the research immediately if he/she ascertains upon completion of the Formal Inquiry that any of the following conditions exist:

- a. There is a risk to public health or safety;
- b. Federal funds or equipment are in jeopardy;
- c. Research activities should be suspended;
- d. Possible violation of civil or criminal law is indicated;
- e. Federal action is needed to protect the interests of those involved in the inquiry; or
- f. A likelihood exists that the alleged incident will be reported prematurely to the public, requiring appropriate steps to safeguard evidence and protect the rights of those involved.

B. Final Reporting

The final report submitted by the RIO to the government will describe:

- a. The policies and procedures under which the investigation was conducted,
- b. How and from whom relevant information was obtained,
- c. The findings and the basis for the findings,
- d. The actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, and
- e. A description of any sanctions applied by the University.

If the research in question has been federally funded, then the final report submitted to the government must also be made public on the website for the Office of Research Integrity.

C. Additional Sanctions

The relevant federal agency has the right under federal regulations to impose additional sanctions beyond those applied by the institution, upon investigators or institutions if they deem such action appropriate in situations involving funding from their respective agency.

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 - B. Recipient of the Allegation
- VI. Conducting the Preliminary Assessment and Inquiry**
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 - B. Notice to the Respondent; Sequestration of Records
 - C. Appoint of Ad Hoc Committee of the University Research Committee
 - D. Charge of Inquiry Committee and First Meeting
 - E. Inquiry Process
 - F. Time for Completion
- VII. The Preliminary Report**
 - A. Elements of the Preliminary Report
 - B. Notification to the Respondent and Opportunity to Comment
 - C. Institution Decision and Notification
 - 1. Decision of Deciding Official
 - 2. Notification to Office of Research Integrity
 - 3. Documentation of Decision to Not Investigate
- VIII. Conducting the Formal Inquiry / Investigation**
 - A. Initiation and Purpose

- B. Notifying the ORI & Respondent; Sequestration of Records
- C. Discussion with Subject
- D. Research Integrity Board & Chair
- E. Charge to the Committee and First Meeting
- F. Formal Inquiry and Investigation Process
- IX. The Formal Inquiry / Investigation Report**
 - A. Elements of the Report
 - B. Rights to Comment by Subject of the Allegation
 - C. Completion of Formal Inquiry
 - D. Deciding Official Determination
 - E. Resolution
 - 1. Formal Actions and Proceedings for Research Misconduct
- X. Institutional Administrative Actions**
- XI. Other Considerations**
 - A. Termination or Resignation Prior to Completing Inquiry or Investigation
 - B. Restoration of Respondent’s Reputation
 - C. Protection of Complainant, Witnesses, and Committee Members
- XII. Reporting**
 - A. Notification
 - 1. Reasons for Immediate Notification
 - B. Final Reporting
 - C. Additional Sanctions

Appendix A – Critical Path: Response to Allegation of Scholarly Misconduct

4. DEFINITIONS

Defines terms in alphabetical order that are used in the policy or related procedures, including technical terms that readers may not understand.

Agency or Foundation Support	Agency or Foundation support means grants, contracts, or cooperative agreements or applications.
Allegation of Misconduct	Allegation means any written, oral statement, or other indication of possible research misconduct made to an institutional official.
Allegations of Research Misconduct – <i>Bad Faith</i>	Allegations in “bad faith” include those that are knowingly false, capricious, motivated by malice, or intentionally dishonest, or made with reckless disregard for or willful ignorance of facts that would disprove the allegation.
Allegations of Research Misconduct – <i>Good Faith</i>	“Good faith” allegations mean allegations made with the honest belief that research misconduct may have occurred.

Complainant	The complainant is the source of the allegation and the individual who makes a complaint of research misconduct against a faculty member or LMU employee. This individual may also be referred to as the whistleblower.
Confidentiality	Abuse of Confidentiality includes the expropriation or abuse of ideas, data, and/or inappropriate dissemination of personally identifying human subject data.
Conflict of Interests	Real or apparent interference of one person’s interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.
Deciding Official	University official who makes final determinations on allegations of research misconduct and any responsive institutional actions. The Deciding Official for the LMU is the most senior academic official, currently the Executive Vice President and Provost of Academic Affairs.
Evidence	Any document, tangible item, or testimony offered or obtained during a misconduct proceeding that tends to prove or disprove the existence of an alleged fact.
Faculty	Any member of the LMU community who holds any one of the titles listed in the Faculty Handbook under Faculty of the University, with or without one of the modifiers listed in that section.
Federal Regulation	Federal agency regulation establishing standards for institutional inquiries and investigations into allegations of research misconduct.
Investigation	Formal development of a factual record and the examination of that record leading to a decision not to make a finding of misconduct or to a recommendation for a finding of misconduct, which may include a recommendation for other appropriate actions.
Preliminary Inquiry	Preliminary Inquiry means gathering information and initial fact-finding by the University Research Committee (ad hoc subcommittee) to determine whether an allegation or apparent instance of research misconduct warrants an investigation. More specifically, as used in this policy, it also refers to the Deciding Officials preliminary examination of the evidence in his/her decision to proceed with the Formal Inquiry.
Formal Inquiry	Formal Inquiry means the formal examination and evaluation of all relevant facts by the Board on Research Integrity to determine if misconduct has occurred, and, if so, to determine the responsible person and the seriousness of the misconduct.
Office of Research Integrity (ORI)	Office of Research Integrity (ORI) the Federal office within the Department of Health & Human Services that is responsible for research misconduct and research integrity services.
Preponderance of the Evidence	Proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Principal Investigator (PI)	The individual designated by the grantee (LMU) to direct the project or activity being supported by the grant or contract for extramural funding. The PI is responsible and accountable to the grantee and the sponsor for the delivery of project of activities in accordance with sponsor regulations and LMU policies. The PI is also known as Program or Project Director.
Records of Misconduct Proceeding	Includes any and all: Research records and evidence secured for the research misconduct proceeding pursuant to this policy, except to the extent the Research Integrity Officer determines and documents that those records are not relevant to the proceeding or that the records duplicate other records that have been retained; Documentation of the determination of irrelevant or duplicate records; Inquiry report and final documents (not drafts) produced in the course of preparing the inquiry report, including documentation of any decision not to investigate; Investigation report and all records (other than drafts) in support of the investigation report, including recordings or verified transcripts of each interview conducted; and Complete record of any appeal.
Relevant Dean(s)	Dean(s) of the college(s) in which the respondent(s) hold appointments.
Research	Research includes all basic, applied, and demonstration research, including but not limited to all fields of science, engineering, mathematics, humanities, arts, and the social sciences.
Research Integrity Board (Board)	Standing Board of six tenured faculty member appointees, one from each of LMU's Colleges/Schools. University Standing Committees represent a range of constituents and conduct work that is continuous rather than single-project focused. In those areas where the faculty holds primary and collaborative responsibility, University Standing Committees report jointly to the Faculty Senate and the Provost. In other areas, University Standing Committees directly advise the President or Provost.
Research Integrity Officer (RIO)	The RIO is the Assistant Vice Provost for Research. The RIO will be well qualified to handle the procedural requirements involved and have the skills to be responsive 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
Research Integrity Policy	Research Integrity Policy means the LMU regulation establishing standards for institutional inquiries and investigations into allegations of research misconduct.
Research (Scientific) Misconduct	Either research misconduct or research-related misconduct, unless otherwise specified, defined as a knowing fabrication, falsification,

	<p>plagiarism or other practice that seriously deviates from those commonly accepted within the scholarly community for proposing, performing, or reviewing research, or in reporting results. It does not include honest error or differences of opinion or differences in interpretations of data.</p> <ul style="list-style-type: none"> • 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. • Plagiarism (misrepresentation of data) is the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit. • Abuse of Confidentiality includes the expropriation of abuse of ideas, data, and/or inappropriate dissemination of personally identifying human subject data. <p>One of the following must be proven to establish a finding of research misconduct:</p> <ul style="list-style-type: none"> • A significant departure from accepted practices of the scholarly community for maintaining the integrity of the research record; • The misconduct has been committed intentionally, or knowingly, or in reckless disregard of accepted practices; and, • The allegation can be proven by a preponderance of evidence. <p>Disciplinary action based on a finding of research misconduct will take into account the seriousness of the misconduct, including but not limited to:</p> <ul style="list-style-type: none"> • The degree to which the misconduct was knowing, intentional or reckless; • Whether it was an isolated event or reflective of a pattern of behavior; or, • If it had significant impact on the research record, research subjects or other research, institutions, or public welfare.
<p>Research-Related Misconduct</p>	<p>Any act that violates the standards of integrity in the conduct of scholarly and scientific research and communication outside the parameters of research misconduct as defined in this policy and relevant federal regulations. This includes, but is not limited to, forging academic documents; abusing the confidentiality of information obtained from colleagues or other persons; failing to acknowledge the intellectual contribution of others; making false representations concerning intellectual property; intentionally or</p>

	<p>knowingly helping another to commit an act of misconduct, or otherwise facilitating such acts; or other practices that seriously deviate from ethical standards that are commonly accepted within the scientific and scholarly communities. Research-related misconduct also includes any form of retaliation against a person who, while acting in good faith, provides information about suspected or alleged misconduct.</p> <p>In this definition, abuse of confidentiality means misuses of confidential information or failure to maintain the confidentiality of such information, for example, “stealing” of information obtained through review of research proposals, manuscripts, etc.</p> <p>Violations of pertinent federal regulations or institutional policies and ethical codes, for example, those involving the protection of human subjects and the welfare of laboratory animals, are also research-related misconduct, but allegations of such violations are investigated under the relevant institutional policies when those policies contain guidelines for investigation of misconduct allegations. When no such guidelines exist, such allegations are investigated under this policy.</p>
Research Record	<p>Broad category of university records that includes, but is not limited to: grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files. In addition, research records include any data, document, computer file, computer diskette, or any 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.</p>
Respondent	<p>Person against whom an allegation of misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.</p>
University Research Committee	<p>University Research Committee (URC) makes recommendations to the Provost and Faculty Senate on the development and revision of all policies supporting and governing research at LMU, advises the Provost and Faculty Senate on all existing and new university-wide research initiatives and structures, will appoint an Ad Hoc subcommittee to review Preliminary Inquiries.</p>
Whistleblower	<p>Whistleblower is the term used by the federal government to refer to a person who makes an allegation of research misconduct.</p>

5. RESPONSIBILITIES

A. Research Integrity Officer (RIO)

The Assistant Vice Provost for Research will serve as the RIO who will have primary responsibility for implementation of the institution's policies and procedures on research misconduct. These responsibilities include the following duties related to research misconduct proceedings:

- Receive allegations of research misconduct;
- Assess each allegation of research misconduct in accordance with this policy to determine whether it falls within the definition of research misconduct and warrants an inquiry;
- As necessary, take interim action and notify ORI of special circumstances, in accordance with this policy;
- Sequester research data and evidence pertinent to the allegation of research misconduct in agreement with this policy and maintain it securely in accordance with this policy and applicable law and regulation;
- Provide confidentiality to those involved in the research misconduct proceeding as required by 42 CFR 93.108, other applicable law, and institutional policy;
- Notify the respondent and provide opportunities for him/her to review/ comment/respond to allegations, evidence, and committee reports in accordance with this policy;
- Inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;
- Communicate with the chairs of the University Research Committee and Board of Research Integrity of the inquiry and investigation committees, ensure that those committees are properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
- In consultations with relevant Dean or institutional officials, such as Human Resources determine whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;
- In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other institutional members;
- Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of research misconduct;
- Notify and make reports to ORI as required by 42 CFR Part 93;

- Maintain records of the research misconduct proceeding and make them available to ORI in accordance with this policy.

B. Complainant

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the Preliminary Inquiry and Formal Inquiry investigation. As a matter of good practice, the complainant must be interviewed at the inquiry stage and given the transcript or recording of the interview for correction. The complainant must be interviewed during an investigation and be given the transcript or recording of the interview for correction.

C. Respondent

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent is entitled to:

- A good faith effort from the RIO and URC Chair to notify the respondent in writing at the time of or before beginning an inquiry;
- An opportunity to comment on the inquiry report and have their comments attached to the report;
- Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of, or refers to 42 CFR Part 93 and the institution's policies and procedures on research misconduct;
- Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (within 30 days after the institution decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;
- Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;
- Have interviewed during the investigation any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and,
- Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based and be notified that any comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.

The respondent should be given the opportunity to admit that research misconduct occurred and that they committed the research misconduct. With the advice of the RIO and/or other institutional officials, the Deciding Official may terminate the institution’s review of an allegation that has been admitted, if the institution’s acceptance of the admission and any proposed settlement is approved by ORI. As provided in 42 CFR 93.314(a), the respondent will have the opportunity to request an institutional appeal if the institution’s procedures provide for an appeal outlined in the Faculty Handbook.

D. Deciding Official (DO)

The DO will receive the inquiry report and after consulting with the URC Chair, RIO and/or other institutional officials, decide whether an investigation is warranted under the criteria in 42 CFR 93.307(d). Any finding that an investigation is warranted must be made in writing by the DO and must be provided to ORI, together with a copy of the inquiry report meeting the requirements of 42 CFR 93.309, within 30 days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least 7 years after termination of the inquiry, so that ORI may assess the reasons why the institution decided not to conduct an investigation.

The DO will receive the investigation report and, after consulting with the RIO and/or other institutional officials, decide the extent to which this institution accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative actions are provided to ORI, as required by 42 CFR 93.315.

6. POLICY ENFORCEMENT

Violations [optional]	It is an explicit violation of this policy to do any of the following: Click here to enter text.
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Enforcement	The Deciding Official, Executive Vice President and Provost will investigate suspected violations, and may recommend disciplinary action in accordance with University codes of conduct, policies, or applicable laws. Sanctions may include one or more of the following: <ul style="list-style-type: none"> • Suspension or termination of access; • Disciplinary action up to and including termination of employment;
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- Student discipline in accordance with applicable University policy;
- Civil or criminal penalties

Reporting
Violations

Research Integrity Officer (RIO), Assistant Vice Provost for Research

7. RELATED DOCUMENTS

A list of any related documents, including LMU policy documents and any external legal or regulatory documents that provide additional information about the policy. Provide live Website links to documents where possible.

Policy or Document	Web Address
<u>LMU Faculty Handbook</u>	https://academics.lmu.edu/ofd/resources/

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8. CONTACTS

Includes the office or position (not individual name) to contact for policy clarification, along with others who can provide information about the subject matter of the policy.

Subject	Office or Position	Telephone Number	Office Email or URL
Policy clarification	Assistant Vice Provost for Research	310-338-5119	angie.rochat@lmu.edu
Web address for this policy	https://academics.lmu.edu/orsp/services/policiesandforms/		