

Institution Policy

Misconduct in Science

Policy Information

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- Responsible Member of Directorate: Executive Vice President and Director of Research
- Responsible Office: Director of Research

Reason for Policy

The Woods Hole Oceanographic Institution finds intolerable any action or conduct on the part of its staff or personnel that comprises scientific misconduct. Specifically, "scientific misconduct" is ethically unacceptable behavior that undermines the integrity of research; that is, calls into question the validity of the research.

Contents

[Policy Information](#)

[Reason for Policy](#)

[Procedures](#)

Procedures

Prohibited Conduct

The Woods Hole Oceanographic Institution finds intolerable any action or conduct on the part of its staff or personnel that comprises scientific misconduct. Specifically, "scientific misconduct" is ethically unacceptable behavior that undermines the integrity of research; that is, calls into question the validity of the research. It 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 or conducting science or engineering education. Scientific misconduct also means retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith. Scientific misconduct does not include honest error or honest differences in interpretations or judgments of data.

Without limiting the scope of the above definition of scientific misconduct, the Institution anticipates that in the context of research at the Institution, scientific misconduct would generally come within one of two main subdivisions:

1. Deception or intentional misrepresentation in the proposing, conducting or reporting of research, including fabrication, falsification and plagiarism; or
2. Attempting to prevent the reporting of misconduct and/or retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct who did not act in bad faith.

Less significant instances of deception and intentional misrepresentation (i.e. those that do not call into question the validity of the research) also are totally unacceptable at the Woods Hole Oceanographic Institution. Complaints about such actions are covered under the Institution's Grievance Policy.

Reporting of Allegations

Allegations or suspicions of scientific misconduct should be reported to the Executive Vice President and Director of Research, Department Chair, Center Director or other appropriate senior member of the administration. It will be the responsibility of the individual who received the report to inform the Director of Research, who will then initiate an inquiry to determine whether the matter warrants a formal investigation. However, if the person making the allegation objects to the initiation of an inquiry and refuses to cooperate, the Director of Research may determine not to proceed further if it appears that the individual's lack of cooperation would significantly impair the inquiry process.

In situations where an individual prefers to place an anonymous report in confidence, they are encouraged to use the WHOI Ethics Hotline, hosted by a third party provider, EthicsPoint.

The information provided through the WHOI Ethics Hotline noted above will be shared with the Institution's EEO Officer/Title IX Coordinator by EthicsPoint on a completely confidential and anonymous basis. Unless the individual allows differently, personal contact information will not be shared. Means of communication between individuals filing a report and the Institution's EEO Officer/Title IX Coordinator will be facilitated entirely through EthicsPoint.

Inquiry and Investigation

The purpose of the inquiry is to separate allegations deserving of further investigation from frivolous, unjustified or clearly mistaken allegations. If it is determined that an allegation falls within the definition of scientific misconduct, all original research records and materials relevant to the allegation will be secured immediately and the Director of Research shall initiate the Inquiry process by assigning responsibility for conducting the inquiry to an appropriate individual. Unless circumstances make such an assignment inappropriate, this responsibility will be assigned to the relevant Department Chair or Center Director. In order to maintain consistency of the process(es), provide appropriate guidance to those individuals charged with conducting the inquiry and any ensuing investigation, review reports for sufficiency, and interface with the Institution's legal counsel, the Director of Research shall designate an impartial, neutral third party (typically the Institution's EEO Officer/Title IX Coordinator) to facilitate the inquiry/investigation.

Upon completion of the inquiry, the Director of Research shall review the Inquiry report and the principals' comments, if any, and shall determine if a formal investigation is warranted. If the Director of Research concludes that the matter warrants further investigation, he or she will appoint a committee responsible for a formal investigation of the allegations. This committee normally will be selected from, but not necessarily limited to, the Senior Scientific staff of the Institution. The investigation committee will make findings and recommendations to the Director of Research concerning the validity of the accusations. The Director of Research shall then make a final determination or return the matter to the investigation committee for further review of any matter on which the Director if Research seeks further review or clarification. The final determination also shall include any specific actions to be taken at that time to discharge the responsibilities of the Director of Research as set forth at the end of this policy.

Confidentiality and Privacy

In the inquiry, as well as in any following investigation, the Institution will take every reasonable effort to respect and protect confidentiality in order to prevent possible damage to the reputations of innocent individuals, and to avoid intrusion into individuals' privacy, consistent with conducting a proper inquiry and investigation. Every reasonable effort also will be made to protect the privacy of those who in good faith report apparent scientific misconduct. Furthermore, the presumption of the innocence of the accused will be respected unless and until a formal investigation determines otherwise.

In addition, reasonable effort should be made to provide the accused person or persons a prompt and thorough process with an opportunity to comment upon the allegations, the findings of the inquiry and/or any subsequent investigation. The process itself is outlined below.

Process

General Requirements Regarding Inquiry and Investigation

Because scientific misconduct can diminish the value of scientific work being performed at the Institution and because scientific misconduct can undermine the integrity of the Institution, it is vital to conduct an appropriate inquiry and, when warranted, a thorough investigation of allegations of scientific misconduct. In order to do so, all persons whose cooperation is requested, including but not limited to the principals, are expected to cooperate fully with any and all requests for information or assistance. Should any of the individuals whose cooperation has been requested refuse to participate in the process, the person conducting the Inquiry or the Investigation committee will use its best efforts to reach a conclusion concerning the allegations, noting in the applicable report(s) the individual's failure to cooperate and its effect on the review of the evidence. Precautions against the fact or appearance of conflict of interest on the part of those conducting the inquiry and the investigation will be taken.

In addition, because even the mere existence of allegations of scientific misconduct can be harmful to an individual's reputation regardless of the resolution of the process, all principals and others who become aware of the allegations are expected to maintain confidentiality about the matter both during and after the inquiry and investigation process, at least until and unless an investigation concludes that scientific misconduct occurred. However, this does not limit in any way the rights of the individual conducting the inquiry, the investigation committee, the Director of Research or the designees of any of them to take any and all reasonable steps during and after the inquiry and investigation process to discharge other responsibilities under this policy or otherwise to protect the interests of the Institution. Such persons should instead attempt to balance reasonable and legitimate confidentiality interests against their responsibilities under the policy or other interests of the Institution. This also is not intended to discourage individuals from making reports in good faith to appropriate public authorities, although individuals are encouraged to address with the Institution any concerns they may have with the nature or results of any inquiry or investigation.

The inquiry and the investigation are not intended to be formal legal proceedings. Accordingly, the Institution does not consider it necessary for any party, including the Institution, to be represented by counsel during such proceedings. Therefore, counsel will not be permitted to attend the inquiry interviews or to respond to requests for information on behalf of their clients at any stage in the inquiry or investigation process. However, should the process advance to the investigation stage, if any of the parties wishes to have

an attorney present during his/her own personal interview, this can be arranged in advance by contacting the individual designated to facilitate the investigation. It is understood that counsel may only be present at his/her client's investigation interview; can only be present to advise his/her client, not to respond to or object to the interview questions on behalf of the client; and will be present at the client's own expense. In the event that any of the parties have counsel present, the Institution may also choose to have counsel present.

Inquiry

The Director of Research will initiate an inquiry as soon as is reasonably possible following receipt of an allegation of scientific misconduct if it is determined that the allegation falls within the purview of this policy. Typically this allegation will be in writing. It may come from an individual directly to a Department Chair, Center Director, or other senior administrator; through the WHOI Hotline or www.whoi.ethicspoint.com; or through a funding agency to the Institution. The inquiry will be completed within 60 calendar days of its initiation, unless the individual conducting the inquiry determines that the circumstances clearly warrant a longer period. In that event, the individual shall provide a memorandum to the Director of Research and to all principals stating the reasons for the extension of the period and the revised time frame for completing the inquiry. That memorandum shall be part of the record.

In conducting the inquiry, the designated individual may utilize available resources both internal and external to the Institution, such as outside experts in the pertinent field of research, the EEO Officer/Title IX Coordinator and/or the Institution's legal counsel. The individual shall complete the inquiry by writing a report to the Director of Research that states what evidence was reviewed, summarizes relevant interviews and includes the conclusions of the inquiry. The conclusions shall include a recommendation to the Director of Research regarding whether the matter warrants a formal investigation. In the event that the individual conducting the inquiry finds that any of the principals (i.e., the accuser(s) and accused) have abused the inquiry process (such as by raising allegations in bad faith, by failing to cooperate with the inquiry or by breaking confidentiality), observations concerning any such conduct shall be included in the report. This report will be reviewed for sufficiency by a designee of the Director of Research prior to being delivered to the Director of Research.

A copy of the report will be made available to the individual(s) against whom the allegation was made after the report is submitted to the Director of Research. In addition, those portions of the report relevant to the allegation of scientific misconduct will be made available to the person(s) who raised the allegation. Both individual(s) making the allegation and the person(s) against whom the allegation was made will have the opportunity (but not an obligation) to submit their comments on the inquiry report within ten calendar days of its delivery to the Director of Research (unless circumstances clearly warrant an extension of that period). Any such comments shall be made part of the record. The detailed documentation and report from the inquiry will be maintained for at least three years in a secure area, accessible only at the discretion of the Director of Research.

Director of Research Review of Inquiry Report

The Director of Research shall review the report and the principals' comments, if any, and shall determine if a formal investigation is warranted. The Director of Research shall issue a written determination within thirty days of the submission of the inquiry report (unless the circumstances clearly warrant an extension of that period). Even if the facts are undisputed, the Director of Research may determine that a further investigation is warranted for the purpose of obtaining the views of others regarding whether the practices that are the subject of the allegations constitute scientific misconduct. If the Director of Research concludes that the matter more appropriately falls under another Institutional policy, he or she will implement the process dictated in that policy. If the Director of Research concludes that the matter does not warrant further investigation, the case will be closed, no further action will be taken and the Institution will make every reasonable effort to protect the reputations of the principals. However, should circumstances indicate that the inquiry process has been abused, the Director of Research may take appropriate action at his or her discretion.

Investigation

If the Director of Research concludes that the matter warrants further investigation, he or she will appoint a committee responsible for a formal investigation of the allegations. This committee normally will be selected from, but not necessarily limited to, the Senior Scientific staff of the Institution. The Director of Research will designate one committee member as Chair. To avoid the fact or appearance of conflict of interest, the committee normally will include at least one scientist outside the department of the accused person. The committee may include scientists from outside the Institution if the Director of Research concludes that this is necessary to maintain standards of objectivity. The principals will have the opportunity to comment on the composition of the committee before the appointment is finalized, but the ultimate responsibility for its composition lies with the Director of Research.

The formal investigation normally will be started within 30 calendar days of the completion of the inquiry and typically will include examination of documentation, including but not necessarily limited to relevant research data, notebooks and proposals; computer files; publications; correspondence; and memoranda of telephone calls or other electronic communications. The committee has the authority to retain any and all the relevant original documents and materials until completion of the investigation. Interviews normally should be conducted with all individuals either involved in making the allegation or against whom the allegation is made, as well as with other individuals who might have knowledge or information pertinent to the allegations. Summaries or complete records of these interviews will be prepared, either as written records or audio tapes of the interviews, and provided to the interviewed party for comment or revision and included as part of the investigatory file. Necessary and appropriate expertise to carry out a thorough investigation and to provide adequate documentation of the process will be sought, if necessary, from within and/or outside the Institution, including, but not limited to, outside experts in the pertinent field of research, the EEO Officer/Title IX Coordinator and the Institution's legal counsel.

The investigation will be completed, a written report of findings reviewed for sufficiency by the designee of the Director of Research

and then presented to the Director of Research within 120 calendar days of its initiation unless circumstances clearly warrant a longer period. In that event, the Chair of the committee shall follow the same procedure as is applicable to an extension of the inquiry. Following delivery of the report to the Director of Research, copies of the investigation report also will be made available to the person(s) against whom the allegation was made, and those portions of the report relevant to the findings concerning the misconduct allegation will be made available to the person(s) who raised the allegation. Each of the principals may (but is not required to) submit written comments to the Director of Research within 30 calendar days of the presentation of the report to the Director of Research. Any such comments shall be made part of the record. The report of the committee and the investigatory file shall be maintained for at least three (3) years in a secure area, accessible only at the discretion of the Director of Research.

The investigation committee will make findings and recommendations to the Director of Research concerning the validity of the allegations. In assessing the evidence, the committee will find scientific misconduct only when the preponderance of evidence supports such a finding, that is, when the committee is convinced that it is more likely than not that scientific misconduct occurred based upon the quality, quantity and credibility of the evidence presented. In the event of a finding of scientific misconduct, it is the responsibility of the investigation committee to render an opinion regarding the severity of the scientific misconduct and to distinguish between more or less significant instances of misconduct, the differentiation being whether or not the misconduct calls into question the validity of the research. In cases other than those covered by the Public Health Service which makes no such distinction, should the findings of misconduct not call into question the validity of the research (i.e. characterized as a less significant instance of misconduct), thereby more appropriately falling under the Grievance Policy, this inquiry and investigatory process will substitute for the process dictated by the Grievance Policy and sanctions appropriate to that level of misconduct shall apply.

To the extent that allegations of scientific misconduct are not confirmed, the committee also shall make findings regarding whether anyone has knowingly made false charges of scientific misconduct or has knowingly given false statements to the investigation committee. In making such findings, the committee shall again apply the preponderance of evidence standard of proof.

Director of Research Review of the Investigation Report

Within 60 days of receipt of the report, the Director of Research shall then make a final determination or return the matter to the investigation committee for further review of any matter on which the Director of Research seeks further review or clarification. The final decision by the Director of Research will be based upon his/her determination of whether there is substantial evidence to support the conclusions of the committee. It also shall include sanctions, if appropriate, and any specific actions to be taken at that time to discharge the responsibilities of the Director of Research as set forth below.

Director of Research Responsibilities

During and subsequent to the inquiry and/or formal investigation, the Director of Research is responsible for taking appropriate actions, as determined by the Director of Research, to accomplish the following:

1. Requisite and appropriate reporting to funding agencies and to other institutions that may be implicated as promulgated in 42 CFR Part 50 and 45 CFR Part 689*;
2. Undertaking diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in scientific misconduct when allegations are not confirmed;
3. Protecting positions and reputations of those persons who made good faith allegations;
4. Imposing appropriate sanctions on individuals for whom the allegation of scientific misconduct has been substantiated;
5. Imposing appropriate sanctions on individuals who have been shown to have knowingly made false charges of scientific misconduct or who have knowingly given false testimony to the inquiry or investigatory committees;
6. Taking appropriate administrative actions to protect Federal funds and ensure that the purposes of the Federal financial support are being carried out.

* Reporting to Governmental Agencies

At least to the extent required by applicable regulations, the Institution shall report to governmental agencies concerning scientific misconduct allegations, inquiries, and investigations as appropriate. Specifically in matters involving allegations related to National Science Foundation (NSF) funded research, the Institution shall:

- notify NSF either before or after initiating an investigation if,
 - the seriousness of apparent misconduct so warrants;
 - immediate health hazards are involved;
 - NSF's resources, reputation, or other interests need protecting;
 - Federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected;or
- the scientific community or the public should be informed;
- inform NSF immediately if the Director of Research concludes that the matter warrants further investigation;
- keep NSF informed during such an investigation; and
- provide NSF with the final report from any investigation.

In matters involving allegations related to Public Health Service (PHS) funded research, the Institution shall:

- notify the Office of Research Integrity (ORI) either before or after initiating an investigation if:
 - immediate health hazards are involved;
 - there is an immediate need to protect Federal funds or equipment;
 - there is an immediate need to protect the interests of a person making
 - allegations or of an individual who is the subject of the allegations as well as his or her co-investigators and associates, if any;
 - it is probable that the alleged incident is going to be reported publicly; or
 - there is a reasonable indication of possible criminal violation, in which case the Institution shall inform ORI within 24 hours of obtaining that information;
- report in writing to the Director of ORI on or before the date of the beginning of an investigation including the name of the person(s) against whom the allegations have been made, the general nature of the allegations, and the PHS application or grant number(s) involved;
- keep ORI informed of any developments during the course of an investigation that disclose facts that may affect current or potential Department of Health and Human Services funding for any individual under investigation or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest;
- if the Institution determines that it will not be able to complete the investigation in 120 days, submit a written request for an extension to ORI and an explanation for the delay that includes an interim report on the progress to date and an estimate for the date of completion for the report and any other necessary steps;
- submit the report of investigation to ORI including a description of this policy and other procedures followed in the investigation, how and from whom information was obtained relevant to the investigation, the findings and the basis for such findings and the text or an accurate summary of the views of any individual found to have engaged in misconduct, as well as a description of sanctions imposed by the Institution.

[\[go back\]](#)

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