

## VIII-3.1 Standards for the Conduct of Scholarly Research

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- [Policy](#)
- [Definition](#)
- [Fraud/Misconduct](#)
- [PHS Misconduct Regulations](#)

### I. Policy

Integrity in research and scholarly activities is the responsibility of the entire academic community. Scholars work in an environment in which there is an important sense of trust. Published material is assumed to have been obtained during the author's investigations. Falsification or fabrication of such data is intolerable. The University of Baltimore (UB) is responsible for developing policies and procedures to address scholarly misconduct and for providing the necessary education, training and resources to all faculty and staff for dealing with allegations or other evidence of misconduct in scholarly work.

All members of UB, including faculty, staff, administrators and students share responsibility for developing and maintaining standards to assure the highest ethical conduct of research and detection of abuse of these standards. Fraud or misconduct in carrying out academic activities undermines the integrity of the educational system and the scholarly enterprise, and erodes the public trust in the university community to conduct research and communicate results using the highest standards and ethical practices. This responsibility to prevent and detect misconduct, however, must be assumed without creating an atmosphere that discourages the openness and creativity which are vital to scholarship and the research enterprise.

Misconduct in scholarly work by any University of Baltimore employee is a breach of contract. Furthermore, misconduct in scholarly work by others associated with UB (e.g., graduate students, volunteer faculty) will not be tolerated. UB considers such a breach adequate cause for termination of employment of faculty or staff.

The policies and procedures outlined below are intended to be consistent with the policies and guidelines on scholarly misconduct which were adopted by the Board of Regents of the University of Maryland System in 1989 and shall be modified in the future as may be required to conform to those policies and guidelines. As discussed further in Part IV, these policies and procedures are also intended to bring UB into compliance with federal regulations applicable to allegations of misconduct related to research funded by the Public Health Service (PHS). In the event of any conflict between any provision of this policy and the federal regulations applicable to a specific case, the federal regulations shall be followed.

The policies and procedures outlined here apply to faculty, staff and graduate students, paid or unpaid, engaged in research, scholarly writing, and the creation of works of art. A copy of this policy shall be provided to all of those individuals. This policy is not intended to address administrative issues of an ethical nature which are covered by other policies; for example, discrimination, affirmative action, and conflicts of interest are covered by other University policies.

The scope of this scholarly misconduct policy and procedures is not limited to matters related to externally sponsored research but covers all research and scholarly activity, regardless of source of support.

[Back to top](#)

## **II. Definition of Scholarly Misconduct**

Scholarly misconduct involves any form of behavior which entails an act of deception whereby one's work or the work of others is misrepresented, and includes fabrication, falsification, plagiarism, or other practices that seriously deviate from commonly accepted standards within the scholarly community for proposing, conducting or reporting research. Other terms such as research fraud, or research misconduct, are subsumed within the term scholarly misconduct as defined below. Scholarly misconduct is distinguished from honest error and from honest differences in interpretations or judgments of data that are inherent in the scholarly process. Scholarly misconduct involves significant breaches of integrity which may take numerous forms such as, but not limited to, those outlined below:

- I. Falsification of Data: Ranging from fabrication to deceptive selective reporting of findings and omission of conflicting data, or willful suppression and/or distortion of data.
- II. Plagiarism: The appropriation of the language, ideas, or thoughts of another and representation of them as one's own original work.
- III. Improprieties of Authorship: Improper assignment of credit, such as excluding others; misrepresentation of the same material as original in more than one publication; inclusion of individuals as authors who have not made a definite contribution to the work published; or submission of multi-authored publications without the concurrence of all authors.
- IV. Misappropriation of the Ideas of Others: An important aspect of scholarly activity is the exchange of ideas among colleagues. New ideas gleaned from such exchanges can lead to important discoveries. Scholars also acquire novel ideas during the process of reviewing grant applications and manuscripts. However, improper use of such information could constitute fraud. Wholesale appropriation of such material constitutes scholarly misconduct.
- V. Violation of Generally Accepted Research Practices: Serious deviation from accepted practices in proposing or carrying out research, improper manipulation of experiments to obtain biased results, deceptive statistical or analytical manipulations, or improper reporting of results.
- VI. Material Failure to Comply with Federal Requirements Affecting Research: Including serious or substantial, repeated, or willful violations involving the use of funds, care of animals, human subjects, or investigational drugs.
- VII. Inappropriate Behavior in Relation to Misconduct: Including inappropriate accusation of misconduct; failure to report known or suspected misconduct; withholding or destruction of information relevant to a claim of misconduct; and retaliation against persons involved in the allegation or investigation.
- VIII. Deliberate misrepresentation of qualifications, experience, or research accomplishments to advance the research program, to obtain external funding, or for other professional advancement.
- IX. Misappropriation of funds or resources, such as, misuse of funds for personal gain.

[Back to top](#)

## **III. Procedures for Handling Allegations of Fraud/Misconduct**

UB must undertake examination (as described below) of any allegation of scholarly misconduct. In the inquiry and investigation which may follow, the institution should focus on the substance of the issues and be guided by the following imperatives:

- I. The process pursued to resolve allegations of misconduct must not damage science itself, or the academic process.
- II. UB will provide vigorous leadership in the pursuit and resolution of all charges.
- III. All participants in the inquiry and investigation will be treated with justice and fairness and with sensitivity to their reputations.
- IV. Procedures must preserve the highest attainable degree of confidentiality compatible with an effective and efficient response.
- V. The integrity of the process must be maintained by painstaking avoidance of real or apparent conflict of interest.
- VI. The procedures should be as expeditious as practical.
- VII. Pertinent facts at each stage of the response should be documented.
- VIII. UB shall pursue allegations within the scope of this policy without regard to whether related civil or criminal proceedings have been initiated or are underway. In the event of such proceedings, UB may, at its option, suspend the inquiry/investigation temporarily but is not under an obligation to do so, as the standards of the University may differ from those of the courts.
- IX. UB shall recognize and discharge its responsibility to communicate the results of the investigating process internally, to all involved individuals after resolving allegations of misconduct; and communicate the results of the investigation externally, to the public, the sponsors of research, the scholarly literature, and the scholarly community as appropriate.
  1. Initiation of an Allegation of Misconduct
    - a) A person who believes that scholarly misconduct has occurred should discuss the matter with the faculty member or administrator designated by the Provost to determine whether or not the alleged conduct falls under the purview of this document or under other applicable UB procedures. If it is determined that the alleged conduct is within the scope of this document, the allegation shall be reported, in writing, to the designated faculty member. All written allegations must be reported to the Provost.

If the Provost has a possible conflict of interest or is unavailable to begin an inquiry immediately, the allegations should be referred to the President of the University of Baltimore, who shall designate a substitute administrator to oversee the investigation of the allegation and carry out responsibilities assigned to the Provost under this policy with respect to the specific allegation in question.

The Provost shall informally review any allegation of scholarly misconduct, confer with the senior administrator (Dean) for the unit employing the faculty member or employee against whom a complaint has been lodged, and with legal counsel, and determine whether the allegation warrants initiation of the inquiry process according to the policies and procedures for scholarly misconduct, or whether other policies and procedures, such as those relevant to employment grievances, should be invoked. The Provost shall counsel the individual(s) bringing the allegation as to the policies and procedures to be used. If the reporting individual chooses not to make a formal allegation but the Provost believes an inquiry is warranted, the inquiry process shall be initiated. Even if the individual against whom an allegation is made

(hereinafter the respondent) leaves or has left UB before the case is resolved, UB may pursue an allegation of misconduct to its conclusion.

## 2. Inquiry

- a) The first step of the review process is an inquiry. This inquiry has as its primary purpose fact finding in an expeditious manner to determine if an allegation is deserving of further formal investigation, and if formal investigation is not warranted, to make recommendations concerning the disposition of the case. Records of the inquiry are confidential and are to be passed on to a Committee of Investigation if formal review is initiated.
- b) A Committee of Inquiry composed of no less than three full time employees, holding a professional level position (i.e., faculty or academic administrator) with no appointment in the Academic Department or Center of either the complainant or the respondent, with no real or apparent conflict of interest, and with appropriate expertise for evaluating the information relevant to the case shall be appointed by the Provost as expeditiously as possible. At least one member of the committee shall be a tenured faculty member. The committee shall elect from among its members a chairperson. Every effort shall be made following an initial expeditious administrative review of the allegation to appoint a Committee of Inquiry within fifteen days.
- c) The Provost is responsible for notifying all parties in writing of the charges and of the procedures that will be used to examine the charges. Further, they shall be informed of the proposed membership of the Committee of Inquiry for the purpose of identifying, in advance, any real or potential conflict of interest.
- d) Where the complainant seeks anonymity, the Committee of Inquiry shall operate in such a way as to maintain that anonymity to the degree compatible with accomplishing the fact-finding purpose of the inquiry. Such anonymity cannot, however, be assured. Further, anonymity of the complainant is neither desirable nor appropriate where the testimony of the complainant is important to the substantiation of the allegations. The committee chairperson shall convene a hearing and shall have the responsibility for ensuring that all of these procedures are followed and shall have the authority to conduct all committee hearings and proceedings.
- e) Information, expert opinions, records and other pertinent data may be requested by the Committee. All involved individuals are obliged to cooperate fully with the Committee of Inquiry by supplying such requested documents and information. Uncooperative behavior is unacceptable and may result in immediate implementation of a formal investigation or other UB sanctions.
- f) Timely access to copies of all documents reviewed by the Committee shall be assured to all parties. All material shall be considered confidential and shared only with those with a need to know. The Provost and the members of the Committee of Inquiry are responsible for the security of relevant documents. Copies of all documents and related communications are to be securely maintained in the Office of the Provost.
- g) The respondent and the persons making the allegations may have the assistance of legal counsel; however, as the inquiry is informal and intended to be expeditious, principals are expected to speak for themselves.
- h) The Committee of Inquiry and the respondent shall have the opportunity to present evidence and to call and question witnesses.

- i) The Committee of Inquiry shall arrive at a judgment as expeditiously as possible. The inquiry phase generally should be completed and a written report filed within sixty calendar days from initiation of the inquiry. If this deadline cannot be met, the Provost and President shall be advised and the record of the inquiry shall include documentation of the reasons for exceeding the 60-day period. The Provost shall inform the sponsoring agency of delays, if required by such agency or sponsor.
  - j) The outcome of the Committee of Inquiry shall be conveyed in writing to the Provost who shall communicate the findings to the respondent. This report shall include evidence reviewed, interview summaries, and conclusions of the inquiry. The respondent shall be given the opportunity to comment in writing upon the findings and recommendations of the committee.
  - k) If the outcome of the inquiry indicates a need for formal investigation, the committee shall communicate its findings to the Provost who then, in consultation with the senior administrator (Dean) of the Department or unit against which a complaint has been lodged, and UB legal counsel, shall initiate the investigatory process. Under certain circumstances, the institution may be expected to notify the sponsoring agency or funding source at a point prior to the initiation of an investigation, and the policies of that agency, including applicable federal regulations, shall be followed. Where notification is not required by regulation or the timing of notice is at the discretion of UB, factors used in determining the timing of such notification will include the seriousness of the possible misconduct, reasonable indication of possible criminal violations, the presence of an immediate health hazard, consideration of the interests or specific requirements of the funding agency and of the interests of the scholarly community, the public, and the individual who is the subject of the inquiry or investigation and his/her associates.
  - l) If the inquiry does not indicate the need for a formal investigation, but does find a need for further alternative action(s), such actions shall be taken by the Provost acting in consultation with the senior administrator (Dean) of the affected Department or unit. For example, the Committee of Inquiry may determine (i) that a correction of the literature is required and/or (ii) that the culpable party be reprimanded for lax supervision, faulty techniques, or inattention to detail.
  - m) If the Committee finds the allegations were not made in good faith, it shall refer the matter to the Provost, since it is a violation of UB policy when an allegation of misconduct is not made in good faith.
  - n) If the Committee plans to terminate the inquiry for any reason prior to completion of the inquiry process, a report of the termination, including a description of the reasons for such termination, shall be made to the Provost.
  - o) Detailed documentation of an inquiry, even where it has been determined that an investigation is not warranted, shall be maintained securely for a period of three years, and provided to a sponsoring agency and to authorized HHS personnel upon request.
3. Investigation
- a) The Provost shall, within thirty days of the reporting by a Committee of Inquiry of the need for formal investigation, appoint an Investigating Committee of no less than three full time employees, holding a professional level position (i.e., faculty, or academic administrator) with no appointment in the administrative unit or center of either the complainant or the respondent, with no real or apparent conflict of interest, and with appropriate expertise for evaluating the information relevant to the investigation. At least

one member shall be a tenured faculty member at UB. In addition, at least one member shall not be associated with the University of Baltimore.

- b) The Committee shall elect one of its members as chairperson. The purpose of the Investigating Committee shall be to explore further the allegation and determine whether misconduct has been committed and the extent of the malfeasance and to make recommendations regarding whether formal termination procedures or other disciplinary sanctions are warranted. The chairperson shall convene a hearing as soon as practicable and shall have the responsibility of ensuring that all of these procedures are followed and shall preside at all committee hearings and proceedings.

All parties to the case, including the Investigating Committee and the respondent, may request documents, present evidence, and call witnesses. The Investigating Committee and the respondent may examine or cross-examine any witnesses. Additional hearings may be held and the Committee may request the involvement of outside experts. The investigation must be sufficiently thorough to permit the Committee to reach a firm decision about the validity of the allegation(s) and the scope of the wrongdoing or to be sure that further investigation could not alter an inconclusive result. Whenever possible, interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations; complete summaries of these interviews shall be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.

In the course of an investigation, additional information may emerge that may justify broadening the scope of the investigation beyond the initial allegations. Should this occur the respondent shall be informed in writing of significant new directions in the investigation. In addition to making a judgment on the veracity of the allegations, the Committee of Investigation shall recommend to the Provost appropriate sanctions, if warranted, and any corrective actions.

- c) As the UB is responsible for protecting the health and safety of research subjects, students and staff, interim administrative action prior to conclusion of either the inquiry or the investigation may be indicated. Such action, ranging from slight restrictions to complete suspension of the respondent and notification of external sponsors shall be initiated by the Provost but may be taken only after consultation with the President and legal counsel to UB.
- d) All parties in the investigation are obliged to cooperate in a timely fashion by producing any additional data or information requested for the investigation by the committee or by the respondent, if approved by the committee. Copies of all materials secured by the Committee shall be provided to the respondent and other concerned parties as judged appropriate by the Committee.
- e) The respondent shall have an opportunity to respond to the charges and evidence in detail. The respondent may be accompanied by and confer with legal counsel at hearings but is expected to speak for him/herself.
- f) All affected individual(s) shall be afforded maximum confidentiality, to the extent possible, throughout the investigation. All hearings are deemed confidential and may be declared closed by request of any of the principals. Written notification of hearing dates and copies of all relevant documents shall be provided by the Provost's Office in advance

of scheduled meetings. Proceedings will be taped-recorded by the committee and copies of the tapes shall be made available to involved parties upon request. The Committee Chairperson shall have full authority over the conduct of the hearing(s) and may consult with the Office of the Attorney General if necessary to resolve legal issues.

- g) After all evidence has been received and hearings completed, the Investigating Committee shall meet in closed sessions to deliberate, and prepare its findings and recommendations. Written findings shall be dated and signed by all committee members and submitted to the Provost.
- h) All significant developments during the investigation, as well as the findings and recommendations of the Committee, shall be reported by the Provost to the research sponsor.
- i) Every effort should be made to complete the investigation within 120 days; this includes conducting the investigation, preparing the report of findings, making that report available for comment by the subjects of the investigation, and submitting the report to the Provost. If they can be identified, the persons who raised the allegations will be provided with those portions of the report that address their role and opinions in the investigation.
- j) It is acknowledged that some cases cannot be fully investigated in 120 days. In such cases, the Investigating Committee shall compile a progress report, identify reasons for the delay, estimate time required to complete the investigation, and request an extension from the Provost.
- k) The Provost shall give the respondent written notice of the Investigating Committee's findings, and the Provost's decision regarding sanctions, within thirty (30 ) days of receiving the report of the Investigating Committee.
- l) The Provost shall convey to the funding agency such information as may be required by it.
- m) When the respondent is notified of the Committee's findings, and the Provost's decision regarding application of sanctions, the respondent shall also be informed of the appeals process. If the sanctions involve a recommendation for termination of employment or other legal rights of faculty or other personnel, applicable disciplinary or termination procedures shall be followed.
- n) Detailed documentation of an investigation shall be maintained by the UB for at least three years, and provided to the sponsoring agency upon request.

#### 4. Resolution

- a) Finding of absence of scholarly misconduct  
All research sponsors and others initially informed of the investigation shall be informed in writing that allegations of misconduct were not supported. If the allegations are deemed not to have been made in good faith, appropriate actions should be taken against the complainant in accordance with this policy. If the allegations, however incorrect, are deemed to have been made in good faith, no disciplinary measures are indicated and efforts should be made to prevent retaliatory actions and to protect, to the maximum extent possible, the positions and reputations of the persons who made the allegations as well as those against whom allegations of misconduct were not confirmed. In publicizing the finding of no misconduct, the UB should be guided by whether public announcements will be harmful or beneficial in restoring any reputation(s) that may have been lost. Usually, such decision will rest with the person who was innocently accused.
- b) Presence of scholarly misconduct

When an investigation confirms misconduct, the Provost shall consider the recommendations of the Committee and shall be responsible for determining and implementing sanctions as appropriate or referring to the President a recommendation for termination or other action not within the Provost's authority. The Provost is responsible for notification to all federal agencies, sponsors or other entities initially informed of the investigation of the outcome. The UB shall take action appropriate for the seriousness of the misconduct, including but not limited to the following:

- 1) Institutional Disciplinary Action including:
  - a. Removal from particular project
  - b. Special monitoring of future work
  - c. Letter of reprimand
  - d. Probation for a specified period with conditions specified
  - e. Suspension of rights and responsibilities for a specified period
  - f. Financial restitution
  - g. Termination of employment.
- 2) Notification: consideration should be given to formal notification of affected entities such as:
  - a. Sponsoring agencies, funding sources
  - b. Co-authors, co-investigators, collaborators department(s), campus publications
  - c. Editors of journals in which fraudulent research was published
  - d. State professional licensing boards
  - e. Editors of journals or other publications, other institutions, sponsoring agencies, and funding sources with which the individual has been affiliated
  - f. Professional societies
- 3) The Provost also shall take action to protect, to the maximum extent possible, the positions and reputations of those persons who made the confirmed allegations.



c) Appeal

Respondent may appeal the findings of the investigating Committee and/or the sanction. A written statement of the grounds for the appeal must be submitted to the President within thirty days of written notification of the results of the investigation.

- 1) Grounds for appeal are:
  - a. That there is new evidence not previously considered that might substantially affect the findings or sanctions;
  - b. That there is no substantial evidence in the record of the investigation to support the findings or sanctions.
  - c. That there is a conflict of interest on the part of a person involved in the investigation that was not previously disclosed; or
  - d. That a committee or the Provost failed substantially to comply with the procedures established by this policy and that such noncompliance materially affected the resulting findings or sanctions.
- 2) Upon receipt of a written appeal, the President will evaluate the evidence and make a determination. He or she may, at his/her discretion, reopen the investigation. The President's decision will be binding on all parties and will be conveyed to all affected entities in a timely fashion.

[Back to top](#)

#### **IV. Special Provisions for Examining Allegations Subject to PHS Misconduct Regulations**

The University of Maryland System Misconduct Policy and this policy are intended to meet the requirements of Title 42, Subchapter D, Code of Federal Regulation, Subpart A, sections 50.101 through 50.105 (the "PHS Misconduct Regulations"). The PHS Misconduct Regulations apply to UB because it applies for research, research-training, or research-related grants or cooperative agreements under the Public Health Service ("PHS") Act. These regulations require UB to investigate and report instances of alleged or apparent misconduct involving research activities or research training, applications for support of research or research training, or related research activities that are supported with funds made available under the PHS Act. It is anticipated that the University System Policy and this policy will be changed, from time to time, to comply with any changes required by amendment of these regulations.

The scope of the System policy and this policy Procedures is not limited to matters related to research supported by the PHS Act. All research and scholarly activity, regardless of source of support, is subject to the same standard of integrity. Misconduct in scholarly work will be censured by UB in all cases. Misconduct associated with research funded under the PHS Act can result in additional federal sanctions against investigators, as well as sanctions against UB, and must be reported to federal authorities as specified below.

In this part of this Policy, the following definitions apply:

"ORI" means the Office of Research Integrity, a component of the Office of the Director of the National Institutes for Health (NIH), which oversees the implementation of all PHS policies and procedures related to scholarly misconduct; monitors the individual investigations into alleged or suspected scholarly

misconduct conducted by institutions that receive PHS funds for research projects or programs; and conducts investigations as necessary.

#### A. Compliance and Regulations

It is UB's policy to comply with all requirements of the PHS Misconduct Regulations applicable to Misconduct. The University of Maryland System and UB will file institutional assurances as required by section 50.103 of the PHS Misconduct Regulations. UB shall provide to the System such information as it may require for that purpose relating to the Policies and Procedures Relating to Allegations of Misconduct in Scholarly Work at UB and to allegations, inquiries and investigations under these procedures.

In order to remain in compliance with the assurance for UB, UB shall:

1. Keep current and upon request provide to ORI, and other PHS officials this policy and other policies UB may develop to encourage scholarly integrity.
2. Inform its scholarly and administrative staff and, as appropriate, its students, of this Policy and the System policy and the importance of compliance with this policy.
3. Take immediate and appropriate action as soon as misconduct on the part of employees or persons within UB's control is suspected or alleged. Actions shall include interim measures to protect Federal funds and ensure that the purposes of Federal financial assistance are being carried out.
4. In accordance with the PHS Misconduct Regulation, inform and cooperate with ORI with regard to each investigation of possible misconduct.

#### B. Reports to ORI

The Provost shall make all reports to ORI which are required by 50.104, or other parts of the PHS Misconduct Regulations, in connection with allegations of misconduct subject to those regulations. More specifically, the Provost shall report:

1. UB's decision to initiate any investigation. This report shall be made in writing to the Director, ORI, on or before the date the investigations begins, and shall include, at a minimum, the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the PHS application or grant number(s) involved. In general, it shall be UB's policy to disclose in this notice no more than the minimum information required under the PHS Misconduct Regulations.
2. During the investigation of the allegations, any developments which disclose facts that may affect current or potential Department of Health and Human Services funding for the respondent or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest.
3. If UB, as a result of the inquiry or investigation process, plans to terminate an inquiry or an investigation for any reason without completing all relevant requirements under 50.103(d), a copy of this report of such planned termination, including a description of the reasons for such termination, shall be submitted to ORI in accordance with federal regulations.
4. The result of the investigation, which shall be filed with ORI within 120 days of the institution of the investigation unless an extension is granted by ORI. The final report will described the

policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings, and include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions under consideration, pending, or taken by UB.

5. Immediately, at any stage of the inquiry or investigation, any determination by UB that any of the following conditions exist:

1. Immediate health hazard;
2. Need to protect federal funds or equipment;
3. Immediate need to protect the interests of the persons making the allegations or the individuals who are the subjects of the allegations as well as their co-investigators and associates, if any;
4. Probability that the alleged incident is going to be reported publicly;
5. Reasonable indication of possible criminal violation (a report for this reason must be made within 24 hours of obtaining the information leading to this conclusion).
6. If the investigation can not be completed within 120 days, the Committee shall forward an extension request to the Provost, who will then forward the request to the Office of Research Integrity (ORI). Such a request shall include an explanation for the delay, an interim report on the progress to date, an outline of what remains to be done and an estimated date of completion.

C. Record Keeping

Detailed documentation of the inquiry and investigation shall be maintained. A copy of all documentation prepared and maintained during the inquiry and investigation shall be made available to the Director, ORI.