

REVISED AND APPROVED: February 8, 2005

Occidental College Policy and Procedure on Research Misconduct

Preamble

Research misconduct is historically a rare occurrence, especially at Occidental, where all members of the community are bound by a very effective code of honor. However, should an instance arise of either real or apparent misconduct, the College must act swiftly and decisively, while affording maximum possible protection both to the “whistle blower” (complainant) and to the accused (respondent). That is the intent of this policy.

The term *research misconduct* means fabrication, falsification, plagiarism, or willful misappropriation of ideas for proposing, conducting, or reporting research. The term *serious error* herein means a significant misrepresentation of data or misappropriation of ideas for proposing, conducting, or reporting research, but without a willful intent. This policy is not intended to deal with other problems, such as disputes over order of authorship, or violation of College or federal regulations, that do not amount to research misconduct.

This policy governs all research conducted at the College. The Chair of each Department is responsible for informing the Department’s faculty, staff, and students of the College’s policy with regard to research misconduct.

If the respondent of a complaint is a person with direct responsibility at any stage of the procedure described below (i.e., a Department or Program Chair, an Associate Dean, the Dean of the College, or the President), the process should continue as outlined with the case going directly to the next higher level.

Procedure

The procedures to be followed have three stages: Inquiry, Investigation, and Resolution. These are the stages required by regulations issued in recent years by various Federal agencies. Those responsible for conducting each phase should bear in mind the following important responsibilities:

1. The College must vigorously pursue and resolve all charges of research misconduct.
2. All parties must be treated with justice and fairness, bearing in mind the vulnerabilities of their positions and the sensitive nature of academic reputations.
3. Confidentiality should be maintained to the maximum practical extent, particularly in the inquiry stage.
4. All semblance of conflict of interest must rigorously be avoided at all stages.
5. All stages of the procedure should be fully documented.
6. All parties are responsible for acting in such a way as to avoid unnecessary damage to the general enterprise of academic research. The College must inform appropriate government agencies of its actions, and if it is found that misleading data or information have been published, the College is responsible for setting the public record straight, for example, by informing the editors of scholarly or scientific journals.

A. INQUIRY

The purpose of this stage is to determine, with minimum publicity and maximum confidentiality, whether there exists a sufficiently serious problem to warrant a formal investigation. It is crucial at this stage to separate substantive issues from conflicts between colleagues that may be resolved

without a formal investigation.

1. *Initiating the Inquiry*

All allegations of research misconduct, arising from inside or outside the College, should be referred directly to the Dean of the College immediately and confidentially. The Dean of the College may initiate an inquiry without a specific complaint if it is felt that evidence of suspicious research misconduct exists.

When a complaint comes forth, the Dean of the College's first job is to provide confidential counsel. If the issue involved does not amount to misconduct, satisfactory resolution through means other than this policy should be sought. However, if there is an indication that misconduct might have occurred, the Dean of the College must pursue the case even in the absence of a formal allegation. Moreover, the case must be pursued to its conclusion even if a complainant and/or respondent resign from their positions at the College.

The Dean of the College should also counsel those involved that, should it be found at either the inquiry or the investigation stage that the allegations were both false and malicious, confidentiality may not be further maintained and sanctions may be brought to bear against the complainant.

2. *Inquiry Procedure*

The Dean of the College is responsible for conducting the inquiry (except, as noted above, where a conflict of interest might be perceived). The Dean of the College may call upon the Department Chair (if more than one department is involved, more than one department chair may be informed), the Associate Dean, and one or more senior colleagues for help where specific technical expertise is required, but this need should be carefully weighed against the importance of confidentiality at this stage.

The Dean of the College may wish to notify the President, and call upon the College legal counsel at this stage. Personal legal counsels for either complainant or respondent are barred from interviews. All parties should recognize that the College counsel always acts on behalf of the College, not one or the other party.

An inquiry is formally begun when the Dean of the College notifies the respondent in writing of the charges and process to follow. This notification and all other documents are to be preserved in a secure file in the Dean's office for at least three years.

The nature of the inquiry will depend on the details of the case, and should be worked out by the Dean of the College in consultation with the respondent, with any colleague the Dean of the College calls on for assistance, and with the College legal counsel. At this stage, every effort should be made to keep open the possibility of resolving the issue without damage to the position or reputation of either the complainant or the respondent. However, the Dean of the College's primary allegiance is not to the individuals but to the integrity of academic research, and to the College. If research misconduct has been committed, it must not be covered up.

The inquiry should be completed, and a written record of findings should be prepared, within 30 days of its initiation. If the 30-day deadline cannot be met, a report citing progress to date and the reasons for the delay should be sent to the respondent.

3. *Findings of the Inquiry*

The inquiry is completed when a judgment is made by the Dean of the College of whether a formal investigation is warranted. An investigation is warranted if a reasonable possibility of research misconduct exists. Written documentation summarizing the process and the conclusion of the inquiry must be prepared. After the draft is reviewed and commented on by the respondent, the final document will be filed in the Dean's office. The Dean of the College must inform the complainant whether the allegations will be subject to a formal investigation.

If a formal investigation is warranted, where applicable, the agency sponsoring the research should be notified at this point. If the allegation is found to be unsupported but has been made in good faith, no further action is required. Aside from informing all parties, all attempts should be made to promote collegiality. If confidentiality has been breached, the Dean of the College may

wish to take reasonable steps to minimize the damage done by the breach. If the allegation is found not to have been made in good faith, the Dean of the College should inform the President and may consider possible disciplinary action.

If a complainant is not satisfied with a Dean of the College's finding that the allegations are unsupported, the result may be appealed to the President.

B. INVESTIGATION

When an inquiry results in a finding that an investigation is warranted, an investigation should be initiated within 30 calendar days, and the Dean of the College should notify the appropriate agency of same. The purpose of the investigation is to determine whether misconduct has been committed. If an investigation is initiated, the Dean of the College should decide whether interim administrative action is required to protect the interests of research subjects, students, colleagues, the funding agency, or the College while the investigation proceeds. Possible actions might include temporary suspension of the research in question. If there is reasonable indication of possible criminal violations, appropriate authorities must be informed by the Dean of the College within 24 hours.

1. *The Investigation Committee*

The Dean of the College shall appoint an Investigation Committee. The principal criteria for membership shall be fairness and wisdom, technical competence in the field in question, and avoidance of conflict of interest. Membership of the committee need not be restricted to the faculty of the College.

The committee should be provided with a budget that will enable it to perform its task. The Dean of the College should write a formal charge to the committee, informing it of the details of its task.

2. *The Investigation Process*

Once the Investigation Committee is formed, it should undertake to inform the respondent of all allegations so that a response may be prepared. It is assumed that all parties, including the respondent, will cooperate fully with the Investigation Committee. The committee should call upon the help of the College legal counsel in working out the procedure to be followed in conducting the investigation. The respondent should be fully informed of the procedure chosen.

At this stage, the demands of confidentiality become secondary to the necessity that a vigorous investigation makes a conclusive determination of the facts. Nevertheless, every attempt should be made to protect the reputations of all parties involved. In cases where witnesses are involved, their statements must be recorded or transcribed, with a chance for corrections be given to the witnesses.

The investigation should be completed, and a full report filed, within 120 days of its initiation. If this deadline cannot be met, an interim report of the reasons for delay and progress to date should be filed.

A copy of the committee report should be given to the respondent with a chance to comment. In addition, the respondent should be given the opportunity for a formal hearing before the Investigation Committee. College legal counsel should be called upon to assist in working out the procedure to be followed in conducting such a hearing.

C. RESOLUTION

The committee findings may be grouped into three broad categories:

1. No misconduct or serious error was committed.
2. Serious error was detected.
3. Misconduct was committed.

1. *No Finding of Misconduct, or Serious Error*

All federal agencies or other entities initially informed of the investigation should be notified promptly. A full record of the investigation should be retained by the Dean of the College in a secure and confidential file for at least three years. The Dean of the College should decide what steps need to be taken to clear the record and protect the reputations of all parties involved.

If allegations are found to have been maliciously motivated, the Dean of the College may wish to recommend to the President appropriate disciplinary action. If the allegations are found to have been made in good faith, steps should be taken to prevent retaliatory actions.

2. *Finding of Serious Error*

All federal agencies or other entities initially informed of the investigation should be notified promptly. The Dean of the College should decide on an appropriate course of action to deal with the serious error, and to correct the scholarly or scientific record.

3. *Misconduct was Committed*

All federal agencies or other entities initially informed of the investigation should be notified promptly.

The Dean of the College should forward the committee report to the President with a recommendation of sanctions and other action to be taken. Possible sanctions include:

- Removal from the project
- Letter of reprimand
- Special monitoring of future work
- Probation or suspension
- Salary or rank reduction
- Termination of employment

The President should review the full record of the inquiry and investigation. The respondent may at this stage appeal to the President on grounds of improper procedure or a capricious or arbitrary decision based on the evidence in the record. New evidence may lead the President to call for a new investigation or further investigation, but not to an immediate reversal of the finding. After hearing any appeal and reviewing the case, the President should make a decision, or, in appropriate cases, recommend a final disposition to the Board of Trustees. The decision of the Board is final.

In addition to regulatory authorities and sponsors, all interested parties should be notified of the final disposition of the case and provided with any legally required documentation. The list may include:

- The complainant
- Co-authors, co-investigators, collaborators
- Editors of journals that have published fraudulent results
- Professional licensing boards and professional societies
- Other institutions that might consider employing the respondent
- Criminal authorities

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