

FURMAN UNIVERSITY PROCEDURES RELATED TO MISCONDUCT IN RESEARCH

Furman University holds its faculty, staff, and students to the highest standards of integrity and responsibility in the conduct of research. The University seeks to prevent, does not tolerate, and will promptly address allegations of research misconduct (as that term is defined below). While research misconduct is historically a rare occurrence, should an instance of alleged research misconduct arise, the University will address it promptly as provided in these procedures and Policy 049.1 Research Misconduct.

Furman's policy and procedures apply only to allegations of research misconduct that occurred within six years of the date Furman or the PHS Office of Research Integrity (ORI) received the allegation, subject to the subsequent use and health or safety of the public exceptions outlined in 42 CFR 93.104(b).

A. DEFINITIONS

Allegation: Disclosure of possible research misconduct to a University official or HHS official through any means of communication.

- **Complainant:** A person who makes an allegation of research misconduct.
- **Respondent:** A person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

Good faith:

- *As applied to a complainant or witness:* Having a reasonable belief in the truth of one's allegation or testimony, based on the information known at the time. An allegation is not in good faith if made with knowledge of or reckless disregard for information that would negate the allegation.
- *As applied to an institutional or committee member:* Cooperating with the research misconduct proceeding by impartially carrying out assigned duties. An institutional or committee member does not act in good faith if their acts or omissions are dishonest or influenced by personal, professional, or financial conflicts of interest.

Inquiry: Preliminary information-gathering and preliminary fact-finding that meets the criteria and follows the procedures of § 93.307 through § 93.309.

Institutional Deciding Official (IDO): The institutional official who makes final determinations on allegations of research misconduct and any institutional administrative actions. The IDO will not be the same individual as the Research Integrity Officer (RIO) and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. An IDO's appointment of an individual to assess allegations of research misconduct, or to serve on an inquiry or investigation committee, is not considered to be direct prior involvement.

Intentionally: To act with the aim of carrying out the act.

Knowingly: To act with awareness of the act.

Recklessly: To propose, perform, or review research, or report research results, with indifference to a known risk of fabrication, falsification, or plagiarism.

Research Integrity Officer (RIO): The institutional official responsible for administering Furman’s written policies and procedures for addressing allegations of research misconduct, in compliance with 42 CFR Part 93.

Research Misconduct: Fabrication, falsification, or plagiarism in proposing, performing, reviewing, or reporting research. It does not include honest error or differences of opinion.

- **Fabrication:** Making up data or results and recording or reporting them.
- **Falsification:** 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:** The appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.

Retaliation: An adverse action taken against a complainant, witness, or committee member by Furman or one of its members in response to a good faith allegation of research misconduct or good faith cooperation with a research misconduct proceeding.

B. ROLES AND RESPONSIBILITIES

The following individuals have key responsibilities in implementing Furman’s policy. Detailed procedures and specific duties are described in the referenced sections below.

Research Integrity Officer (RIO) - The Dean of the Faculty serves as the RIO and is responsible for:

- Receiving and assessing allegations (see D. Assessment, 42 CFR 93.306),
- Sequestering research records and evidence (see E. Inquiry and F. Formal Investigation sections)
- Administering the research misconduct proceeding,
- Notifying ORI or appropriate federal agencies as required (see G. Special Circumstances, 42 CFR § 93.305 & 93.317).
- Conducting the inquiry (see E. Inquiry, 42 CFR 93.307-309),
- Determining whether an investigation is warranted,
- Preparing the inquiry report.

Institutional Deciding Official (IDO) – The Vice President for Academic Affairs and Provost serves as the IDO and is responsible for:

- Appointing the investigation committee (see F. Formal Investigation, 42 CFR § 93.310),
- Making final determinations on allegations of research misconduct,
- Determining institutional administrative actions,
- Final review of investigation report (see F.7. IDO Review section).

Investigation Committee - Appointed by the IDO and responsible for:

- Conducting a thorough examination of evidence (see F.4. Committee Review section),
- Interviewing respondent(s), complainant(s), and witnesses,
- Preparing the investigation report with findings and recommendations (see F.5. Documenting the Investigation section).

All Faculty, Staff, and Students - Responsible for:

- Reporting observed, suspected, or apparent research misconduct to the RIO (see C.1. Responsibility to Report Misconduct),
- Cooperating with inquiries and investigations,
- Not retaliating against complainants, witnesses, or committee members (see C.2. Procedure section).

C. GENERAL OVERVIEW

1. Responsibility to Report Misconduct

All Furman faculty, staff members, and students have a responsibility to report observed, suspected, or apparent research misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, the individual may contact the RIO to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. At any time, the individual can have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations of research misconduct.

2. Procedure

The procedure to be followed has three stages: assessment, inquiry, and investigation. Those responsible for conducting each stage should bear in mind the following important responsibilities:

- The University must vigorously pursue and resolve any charges of misconduct in research.
- All parties must be treated with justice and fairness, bearing in mind the vulnerabilities of their positions and the sensitive nature of academic reputations.
- Confidentiality should be maintained to the maximum practical extent. Disclosure of the identity of respondents, complainants, and witnesses while conducting the proceedings set forth in this policy will be limited, to the extent possible, to those who need to know, as determined by the University, consistent with a thorough, competent, objective, and fair research misconduct proceeding, and as allowed by law. Those who need to know may include institutional review boards, journals, editors, publishers, co-authors, and collaborating institutions. This limitation on disclosure of the identity of respondents, complainants, and witnesses no longer applies once the University has made a final determination of research misconduct findings. Except as may otherwise be prescribed by applicable law, confidentiality will be maintained for any records or evidence from which research subjects might be identified. Disclosure will be limited to those who need to know to carry out a research misconduct proceeding. Without limiting the foregoing, nothing in this section prohibits the University from managing published data or acknowledging that data may be unreliable.
- Conflicts of interest (whether personal, professional, or financial, and whether with the complaint, respondent, or witnesses) must be avoided.
- All respondents and other members of the University community must cooperate with these procedures, including, but not limited to, their providing information, research records, and other evidence, and the University will take reasonable and practical steps to ensure such cooperation.
- The University will address any potential, perceived, or actual personal, professional, or financial conflicts of interest between members of the investigation committee or others and the complainant, respondent, or witnesses.
- All stages of the procedure should be fully documented.
- All parties are responsible for acting in such a way as to avoid unnecessary damage to the general enterprise of academic scholarship. Nevertheless, the University may be required to inform appropriate government agencies of its actions when the work is supported by outside grants. If it is found that misleading data or information have been published, the University is responsible for setting the public record straight, for example, by informing the editors of scholarly or scientific journals.

Once a formal allegation has been made, all faculty, staff, and students are responsible for cooperating with the review of allegations of research misconduct and the conduct of inquiries and investigations. All have an obligation to provide evidence relevant to allegations of research misconduct to the RIO or other institutional officials. Faculty, staff, and students may not retaliate in any way against complainants,

witnesses, or committee members. Any alleged or apparent retaliation shall be reported to the University, 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.

Throughout the process, all participants involved shall, to the extent possible, 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 investigation; and, 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 investigation. The RIO shall also have the option of keeping confidential the identities of witnesses.

The University will take all reasonable and practical steps to protect the positions and reputations of good faith complainants and witnesses and to protect these individuals from retaliation by respondents and/or other members of the University community. The University will also take all reasonable and practical efforts, if requested and as appropriate, 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.

D. ASSESSMENT (42 CFR 93.306)

Upon receiving an allegation of research misconduct, the RIO will conduct an assessment to determine whether an allegation warrants an inquiry. The assessment process is intended to be a review of readily accessible information relevant to the allegation. The RIO will promptly assess each allegation of research misconduct to determine whether the allegation 1) falls within the definition of research misconduct, 2) is within the jurisdictional criteria of 42 CFR 93.102, and 3) is sufficiently credible and specific so that potential evidence of research misconduct may be identified. If the RIO determines that an allegation meets the three assessment criteria, an inquiry will be conducted.

If the RIO determines the requirements for an inquiry are met, they will:

1. Document the assessment;
2. Promptly sequester all research records and other evidence, as set forth in Section E.2. below; and
3. Initiate an Inquiry.

If the RIO determines that an allegation does not meet the assessment criteria, the RIO will keep sufficiently detailed documentation of the assessment to enable a later review by ORI of the reasons why the University did not conduct an inquiry. The documentation must be retained securely for seven years in accordance with 42 CFR 93.318. In such case, the University may take such action, including under applicable University policy, as may be appropriate.

E. INQUIRY (42 CFR 93.307-309)

The purpose of the inquiry is to conduct an initial review of the evidence to determine whether an allegation warrants a formal investigation. An inquiry does not require a full review of the evidence related to an allegation. The RIO should also counsel those involved (referred to hereafter as “complainants” or “respondents”) that, should it be found at either the inquiry or the investigation stage that the allegations were both false and malicious, sanctions may be brought to bear against the complainant.

Furman’s RIO is responsible for conducting the inquiry as set forth in this Section E.

1. Notification of Respondent

At the time of or before beginning an inquiry, the RIO will make a good faith effort to notify the identified respondent(s) in writing that:

- One or more allegations of research misconduct has been raised against them and the nature of such allegation(s);
- The respondent must preserve and sequester all relevant records; and
- An inquiry will be conducted to decide whether to proceed with an investigation.

If additional respondents are identified during the inquiry, they will also be notified in writing.

Respondents will be notified only of allegations specific to them. If additional allegations are raised, they will be notified in writing. This and all other documents are to be preserved securely for seven years.

2. Sequestration of Records (42 CFR 93.305)

On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier (and whenever additional items become known or relevant to the inquiry), the RIO must (a) take all reasonable and practical steps to obtain all research records and evidence (which may include copies of the data or other evidence so long as those copies are substantially equivalent in evidentiary value as determined by the RIO) needed to conduct the research misconduct proceeding, (b) inventory the research records and other evidence, and (c) sequester them in a secure manner. Where the research records or other evidence are located or encompass scientific instruments shared by multiple users, the RIO may obtain copies of the data or evidence from such instruments, so long as those copies are substantially equivalent in evidentiary value to the instruments.

Where appropriate, the University will give the respondent copies of, or reasonable supervised access to, the research records that are sequestered.

3. Conducting the Inquiry

The RIO will determine the scope and nature of the inquiry in light of the details of the allegation(s) and in consultation, in the RIO's sole discretion, with the RIO, one or more subject matter experts, and/or others identified by the RIO. The RIO will use reasonable efforts to maintain the confidentiality of the parties in conducting the inquiry.

The RIO may, in the RIO's sole discretion, interview the respondent and/or witnesses who may provide additional information for the RIO's review.

The inquiry will be completed, and a written inquiry report will be prepared, within 90 days of initiation unless the RIO determines that circumstances warrant a longer period. If the inquiry takes longer than 90 days to complete, the inquiry report will document the reasons therefore.

4. Outcome of the Inquiry

The inquiry will result in a determination of whether or not a formal investigation is warranted. An investigation is warranted if:

- There is a reasonable basis to conclude that the allegation falls within the definition of research misconduct and
- Preliminary information-gathering and fact-finding from the inquiry indicate that the allegation may have substance.

Within 10 days of the finding, the respondent must be provided with an opportunity to offer written comments on the University's draft inquiry report (42 CFR 93.308), including a copy of or reference to the University policy and procedures. Furman may notify complainant whether the inquiry found an investigation to be warranted and provide relevant portions of the draft inquiry report to complainant for comment within 10 days of the finding.

5. Inquiry Report

The written Inquiry Report will include:

1. The names, professional aliases, and positions of the respondent and complainant,
2. A description of the allegation(s) of research misconduct,
3. Identification of the PHS or other agency support (including, for example, grant numbers, grant applications, contracts, and publications listing federal support),
4. The name(s), position(s), and subject matter expertise of any individuals consulted by the RIO,
5. An inventory of sequestered research records and other evidence and a description of how sequestration was conducted,
6. Transcripts of any transcribed interviews,
7. Timeline and procedural history,
8. Any scientific or forensic analyses conducted,
9. Potential evidence of honest error or difference of opinion,
10. The basis for recommending/not recommending that the allegation(s) warrant an investigation, and
11. Any institutional actions implemented, including communications with journals or funding agencies.

The RIO will provide the respondent an opportunity to review and comment on the inquiry report, and may provide the complainant an opportunity to review and comment on the inquiry report, and will attach any comments received to the report.

6. Notification of Outcome

The University will notify the respondent of the outcome of the inquiry. The notice will include a copy of the final inquiry report and will either include a copy of or refer to the University's policies and procedures regarding research misconduct. The University may notify the complainant(s) of the outcome of the inquiry; provided, however, that if it provides portions of the report to one complainant, it must provide notice to all complainants. It may also provide relevant portions of the report to the complainant(s).

If it is determined that an investigation is *not* warranted, the RIO will maintain all documentation of the inquiry to permit ORI to assess the reasons why an investigation was not conducted.

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 and attempting to restore collegial relationships. If confidentiality has been breached, the RIO should take reasonable steps to minimize the damage done by inaccurate reports. If a complainant is not satisfied with the RIO's finding that the allegations are unsupported, the result may be appealed to the IDO.

If it is determined that an investigation *is* warranted, the University must:

- Provide written notice to the respondent(s) of the decision to conduct an investigation into the allegations within a reasonable amount of time after determining that an investigation is warranted but before the investigation begins, including any allegations of research misconduct not addressed during the inquiry within a reasonable amount of time, and
- Notify ORI of the decision to begin an investigation on or before the date the investigation begins and provide a copy of the inquiry report (and any comments on the inquiry report submitted by the complainant or the respondent) within 30 days of determining an investigation is warranted. Upon request, the University will provide ORI the institutional policies under which the inquiry was conducted, the research records and other evidence reviewed, and copies of all relevant documents.

F. FORMAL INVESTIGATION (42 CFR § 93.310)

A formal investigation will be initiated within 30 calendar days of the decision to conduct an investigation.

If an investigation is initiated, the RIO should decide whether interim administrative action is required to protect the interests of research subjects, students, colleagues, the funding agency, or the University while the investigation proceeds. Possible actions might include temporary suspension of the research in question, for example.

1. Notification of Respondent

The Respondent will be notified in writing of the allegation(s) within a reasonable amount of time after determining that an investigation is warranted, but before the investigation begins. The University will give the Respondent written notice of any allegation(s) of research misconduct not addressed during the inquiry or during the initial notice of investigation within a reasonable amount of time of deciding to pursue such allegation(s).

2. Convening an Investigation Committee

The IDO will 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 University in case outside expertise is judged to be necessary. The respondent and complainant should be given an opportunity to comment, in writing, on the suitability of proposed members before the membership is decided. The committee should be provided with funds and secretarial support if needed to enable it to perform its task. The IDO should write a formal charge to the committee, informing it of the details of its task. The investigation committee will be provided with University's statement of policy and procedures as well as 42 CFR Part 93 or the policies appropriate to the pertinent agency. The committee may include members who also assisted with the inquiry.

3. Committee Review

The investigation committee will use diligent efforts to ensure that the investigation is thorough and sufficiently documented, including an examination of all research records and evidence relevant to reaching a decision on the merits of the allegation(s). The investigating committee will take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical.

The committee will interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview. The committee will number all relevant exhibits and refer to any exhibits shown to the interviewee during the interview by that number. The committee will record and transcribe interviews during the investigation and make the transcripts available to the interviewee for correction. The University will include the transcript(s) with any corrections and exhibits in the institutional record of the investigation. The respondent will not be present during the witnesses' interviews, but the respondent will be provided with a transcript of each interview, with redactions as appropriate to maintain confidentiality.

The committee will pursue all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion. The University will notify the respondent in writing of any additional allegations raised against them during the investigation.

Confidentiality should be maintained, except where limited information must be revealed to persons assisting the committee in order to allow a conclusive determination of the facts.

4. Documenting the Investigation

The investigation should be completed and a full report, in accordance with 42 CFR § 93.313, prepared within 180 days of its initiation. If this deadline cannot be met, ORI, or the applicable federal agency, must be notified and an extension requested.

The University must give each respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 days from the date they received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report. The respondent should be given the opportunity for a formal hearing before the investigation committee. University legal counsel should be called upon to assist in working out the procedure to be followed in conducting such a hearing.

The RIO will also share a copy of the report or relevant portions thereof with the complainant(s). The complainant will have 30 days to comment, and those comments will be added to the report.

The investigation report must be in writing and include (42 CFR § 93.313):

1. Description of the nature of the allegation(s) of research misconduct, including any additional allegation(s) addressed during the research misconduct proceeding.
2. Description and documentation of the PHS support, including any grant numbers, grant applications, contracts, and publications listing PHS support. This documentation includes known applications or proposals for support that the respondent has pending with PHS and non-PHS Federal agencies.
3. Description of the specific allegation(s) of research misconduct for consideration in the investigation of the respondent.
4. Composition of investigation committee, including name(s), position(s), and subject matter expertise.
5. Inventory of sequestered research records and other evidence, except records the institution did not consider or rely on. This inventory will include manuscripts and funding proposals that were considered or relied on during the investigation. The inventory will also include a description of how any sequestration was conducted during the investigation.
6. Transcripts of all interviews conducted.
7. Identification of the specific published papers, manuscripts submitted but not accepted for publication (including online publication), PHS funding applications, progress reports, presentations, posters, or other research records that contain the allegedly falsified, fabricated, or plagiarized material.
8. Any scientific or forensic analyses conducted.
9. A copy of these policies and procedures.
10. Any comments made by the respondent and complainant(s) on the draft investigation report and the committee's consideration of those comments.
11. A statement for each separate allegation of whether the committee recommends a finding of research misconduct.

5. Final Investigation Report

If the committee recommends a finding of research misconduct, the investigation report will present a finding for each allegation. A finding of research misconduct requires:

1. A preponderance of the evidence proves research misconduct occurred.
2. The misconduct was committed intentionally, knowingly, or recklessly.
3. The research misconduct is a significant departure from accepted practices of the relevant research community.

Report findings will:

- identify the individual(s) who committed the research misconduct;
- indicate whether the misconduct was falsification, fabrication, and/or plagiarism;
- indicate whether the misconduct was committed intentionally, knowingly, or recklessly;
- identify any significant departure from the accepted practices of the relevant research community and that the allegation was proven by a preponderance of the evidence;
- summarize the facts and analysis supporting the conclusion and consider the merits of any explanation by the respondent;
- identify the specific PHS or other agency support; and
- state whether any publications need correction or retraction.

If the committee does not recommend a finding of research misconduct, the report will provide a detailed rationale for its conclusion.

The committee should also provide a list of any current support or known applications or proposals pending with PHS and non-PHS Federal agencies.

6. IDO Review

The Committee will submit the Investigation report to the IDO along with recommendations for sanctions, where appropriate. The IDO is responsible for making a final written determination of research misconduct findings. The statement will document whether the University found research misconduct and, if so, who committed it as well as the relevant University actions that have been taken/will be taken.

7. Transmit Institutional Record to ORI

The institutional record consists of the records that were compiled or generated during the research misconduct proceeding, except records the institution did not rely on. These records include:

1. Documentation of the assessment;
2. A single index listing all research records and evidence;
3. The inquiry report and investigation report;
4. All records considered or relied on during the investigation;
5. The IDO's final decision;
6. Any information the respondent provided to the institution; and
7. A general description of the records that were sequestered but not considered or relied on.

After the IDO has made a final written determination, and any institutional appeal is complete, the institution must transmit the institutional record to ORI.

8. Appeals

If the respondent filed an appeal, the complete record of any institutional appeal also becomes part of the institutional record. For institutions with an internal appeals process, the [Institution Name] will wait until the appeal is concluded to transmit the institutional record to ORI. After the IDO has made a final written determination, and any institutional appeal is complete, the institution must transmit the institutional record to ORI.

G. SPECIAL CIRCUMSTANCES AND OTHER PROCEDURES (42 CFR § 93.305 & 93.317)

1. Notification of ORI

If at any time during a research misconduct proceeding the following conditions exist, the University will notify ORI immediately:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
2. Health and Human Services resources or interests are threatened.
3. Research activities should be suspended.
4. There is reasonable indication of possible violations of civil or criminal law.
5. Federal action is required to protect the interests of those involved in the research misconduct proceeding.
HHS may need to take appropriate steps to safeguard evidence and protect the rights of those involved.

2. Multiple Institutions

If the alleged research misconduct involves research conducted at one or more other institutions, the University may work with the other affected institution(s) to determine whether a joint research misconduct proceeding will be conducted. If so, the institutions will choose an institution to serve as the lead institution. The lead institution should obtain research records and other evidence pertinent to the proceeding, including witness testimony, from the other relevant institutions. By mutual agreement, the joint research misconduct proceeding may include committee members from the institutions involved. The determination of whether further inquiry and/or investigation is warranted, whether research misconduct occurred, and the institutional actions to be taken may be made by the institutions jointly or tasked to the lead institution.

3. Multiple Respondents

If the University identifies additional respondents during an inquiry or investigation, the University may either:

- Conduct a separate inquiry for each new respondent, or
- Include the additional respondent(s) in the ongoing proceedings.

In either circumstance, the University will give additional respondent(s) notice of and an opportunity to respond to the allegations. In the event that an investigation is initiated that involves multiple respondents, one investigation committee may conduct the investigation into the allegations against all respondents; however, separate investigation reports and determinations will be made for each respondent.

4. Respondent Admissions

The University will promptly notify ORI in advance if at any point during the proceedings (including the assessment, inquiry, investigation, or appeal stage) it plans to close a research misconduct case because the respondent has admitted to committing research misconduct or a settlement with the respondent has been reached.

If the respondent admits to research misconduct, the institution will not close the case until providing ORI with the respondent's signed, written admission. The admission must state the specific fabrication, falsification, or plagiarism that occurred, which research records were affected, and that it constituted a significant departure from accepted practices of the relevant research community. The institution must not close the case until giving ORI a written statement confirming the respondent's culpability and explaining how the institution determined that the respondent's admission fully addresses the scope of the misconduct.