

MARSHALL UNIVERSITY
Policy No. UPGA-13
RESEARCH INTEGRITY

1. General Information.

- 1.1 This policy ensures that Marshall University's research standards are upheld with integrity for Marshall University, the Marshall University Research Corporation, Marshall Health and its research collaborators. It is designed to comply with federal regulations and to apply best practices for dealing with **research misconduct**.
- 1.2 It is Marshall University policy that Marshall University employees and those of its affiliates conduct **research** activities with the utmost integrity, that Marshall University employees and those of its affiliates engaged in **research** are prohibited from committing **research misconduct**, and that Marshall University investigates and adjudicates **allegations** of **research misconduct** involving Marshall University Research, including **research** conducted by its affiliates under the auspices of its **research integrity officer**.
- 1.3 Scope: This policy and its Administrative Procedures apply to all individuals, including faculty, students, and staff at Marshall University engaged in **research**, research-training or applications for research funding. This policy applies to any person paid by, under the control of, or affiliated with the University, including but not limited to scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at Marshall University.

This policy and related procedure(s) do not apply to undergraduate or graduate students engaged in course work when that course work does not generate or seek to generate published research.

- 1.4 Statutory References: W. Va. Code §18B-1-6
- 1.5 Passage Date:
- 1.6 Effective Date:

2. Definitions. This policy uses defined terms with specific meanings. Defined terms used in this policy are in **bold** wherever they appear.

- 2.1 **Affirmative Defense.** Any defense by the **respondent**, including **honest error** or difference of opinion that must be proven by a **preponderance of the evidence**.

- 2.2 **Allegation.** A disclosure of possible **research misconduct** received through any means of communication to an **institutional official**.
- 2.3 **Clear and Convincing Evidence.** This standard is more rigorous to meet than **preponderance of the evidence** standard. **Clear and convincing** evidence is highly and substantially more likely to be true than untrue. In other words, the contention is highly probable.
- 2.4 **Complainant.** A person who makes a **good faith allegation of research misconduct**.
- 2.5 **Conflict of Interest.** The real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships. A **conflict of interest** may exist when an individual has a close familial, personal, or professional relationship with the **respondent** or **complainant**, or a direct relationship with the **research** referenced in an **allegation of research misconduct**, such that the relationship creates a strong potential for biasing the individual's decision-making either in a positive or negative manner.
- 2.6 **Deciding Official (DO).** The **institutional official**, appointed by the President of Marshall University, who makes final determinations on **allegations of research misconduct** and any responsive University actions. The **deciding official** will not be the same individual as the **research integrity officer**. The President may appoint more than one **deciding official** to accommodate the needs of the various campuses. The Provost decides matters involving all campuses of the University except its Medical School. The Dean of the School of Medicine decides all matters arising at the Medical School. If the Dean or Provost are the subject of the **investigation** or otherwise have a **conflict of interest**, the President will appoint another **institutional official** to be the **deciding official**.
- 2.7 **Destruction of Records.** The destruction, absence of, or **respondent's** failure to provide records adequately documenting the **research**, where Marshall establishes by a **preponderance of evidence** that (1) the **respondent intentionally, knowingly, or recklessly** destroyed them; (2) had the opportunity to maintain the **research records** but did not do so; or (3) maintained the **research records** and failed to produce them in a timely manner; and that the **respondent's** conduct constitutes a significant departure from accepted practices of the relevant **research** community.

- 2.8 **Evidence.** Any document, tangible item, or testimony offered or obtained during a misconduct **proceeding** that intends to prove or disprove the existence of an alleged fact.
- 2.9 **Fabrication.** Making up data or results and recording or reporting them.
- 2.10 **Falsification.** Manipulating materials, equipment, or processes, or changing or omitting data or results such that the **research** work is not accurately represented in the **research record**.
- 2.11 **Good Faith.** Having a belief in the truth of one's **allegation** or testimony that a reasonable person in the same position could have, based on the information known at the time. An **allegation** or cooperation with a **research misconduct proceeding** is not in **good faith** if made with **knowing** or **reckless** disregard for information that would negate the **allegation** or testimony.
- 2.12 **Honest Error.** An exception to the definition of **research misconduct** or an **affirmative defense** to an **allegation** of **research misconduct** in which a **respondent** asserts that the questioned conduct resulted from an unintended error rather than an **intentional, knowing, or reckless** distortion of the **research record**. **Respondent** carries the burden of establishing **honest error** by a **preponderance of the evidence**.
- 2.13 **Inquiry.** A preliminary information-gathering and fact-finding conducted to determine whether an **investigation** is warranted.
- 2.14 **Inquiry Committee.** The group charged with conducting the **inquiry**.
- 2.15 **Institutional Official.** Individuals to which reports of **research misconduct** may be made. These reports should be directed to the appropriate college dean, the **research integrity officer**, the vice president of research, or the provost.
- 2.16 **Intentionally.** **Research** was carried out with the **respondent's** intent to **falsify, fabricate, or plagiarize**.
- 2.17 **Investigation.** The formal examination and evaluation of all relevant facts to determine if **research misconduct** has occurred, and, if so, to determine the responsible person and the seriousness of the misconduct.
- 2.18 **Investigation Panel.** A group of at least three (3) individuals charged with conducting the **investigation**.

- 2.19 **Investigator-Secretary.** The person appointed by the **research integrity officer** to assist in the **investigation** of a claim of **research misconduct** and to maintain records under this policy.
- 2.20 **Knowingly.** **Knowingly** is a lower standard of culpability than **intentionally**. **Knowingly** means that **respondent** acted with knowledge and information and awareness of the act. As an example, the **respondent** may not have had any direct involvement in the misrepresentation of results but knew that certain results presented by a coauthor were not consistent with earlier iterations of data.
- 2.21 **Mitigating Factors.** Facts which do not provide a defense for the **respondent** under this policy, but which may be considered by the **deciding official** in determining the appropriate University response to the finding of **research misconduct**.
- 2.22 **Plagiarism.** The appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- 2.23 **Proceeding.** Any action related to **research misconduct** that is an **allegation** assessment, **inquiry**, or **investigation** undertaken pursuant to this policy.
- 2.24 **Preponderance of the Evidence.** Proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more likely true than not.
- 2.25 **Recklessly. Respondent** acted with disregard despite a known risk for harm. Disregard may be shown by **evidence** that a representation is (1) false, misleading, or plagiarized; and (2) the **respondent** was aware of the probability of falseness, misleading, or plagiarized nature. Awareness can be inferred from **respondent's** failure to take reasonable steps to dispel these doubts.
- 2.26 **Record of Research Misconduct Proceeding.** Is (1) the **research record** and **evidence** secured for a **proceeding** pursuant to this policy; (2) the documentation of irrelevant or duplicative records; (3) the **inquiry** report and final documents produced in the course of preparing that report; (4) the **investigation report** and all records in support of the report; and (5) the complete record of any appeal within the University from the finding of **research misconduct**.
- 2.27 **Research.** A systematic experiment, study, evaluation, demonstration, or survey designed to develop or contribute to general knowledge (basic **research**) or specific knowledge (applied **research**) by establishing, discovering, developing, elucidating, or confirming information about, or

the underlying mechanism relating to, the subject matter of any academic discipline. This includes scholarship and all creative works.

- 2.28 **Research Record.** The record of experimental methods, data, and results, whether in physical or electronic form, that embodies the facts related to and resulting from scientific inquiry. The **research record** includes but is not limited to research proposals, grant or contract applications, laboratory notebooks and records, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, animal facility records; human and animal subject protocols; consent forms; medical charts; records of telephone calls or e-mail correspondence; and patient files.
- 2.29 **Research Integrity Officer (RIO).** The University employee, appointed by the President of Marshall University, responsible for assessing **allegations of research misconduct**, conducting **investigations** of such **allegations** and for implementing the administrative procedures.
- 2.30 **Research Misconduct.** Is the **intentional, knowing, or reckless fabrication, falsification, or plagiarism** in proposing, conducting, reporting, or reviewing **research**. It includes the ethically unacceptable behavior that undermines the integrity of **research** that calls into question the validity of the **research**. It does not include **honest error** or differences of opinion. Failure to comply with federal, state, and municipal statutes and regulations governing scientific **research** is unlawful and may also be pursued by the University as a violation of the scientific integrity process.
- 2.31 **Respondent.** The person or persons against whom an **allegation of research misconduct** is directed or whose actions are the subject of the **inquiry or investigation**.
- 2.32 **Retaliation.** Any action that adversely affects the employment or other institutional status of an individual that is taken by the University or its employee because the individual has in **good faith**, made an **allegation of research misconduct** or of inadequate institutional response thereto or has cooperated in **good faith** with an **investigation** of such **allegation**. Any act of **retaliation** taken by a person or entity not within the control of Marshall University is outside the scope of this policy.

3. Responsibility to Report Misconduct.

- 3.1 All employees or individuals associated with Marshall University have the obligation to report to an **institutional official** (Section 2.15) potential **research misconduct** as they become aware of it, in a reasonable amount of time and to cooperate in any **investigation** of such behavior.

This includes authors who become aware of accusations of misconduct concerning their publications.

- 3.2 Informal requests for information or consultation any University official concerning **research misconduct** will not, in and of itself, be construed as formal charges of **research misconduct**.
- 3.3 If the **allegation** is not **research misconduct**, the **RIO** may refer the **allegation** to other offices with the responsibility for resolution.

4. Confidentiality.

1. All aspects of the misconduct process are intended to be kept confidential by all parties—**complainant, respondent, RIO**, committee and panel members, notified University officials, and witnesses—to the extent possible and consistent with fair treatment of such persons balanced against the responsibility to carry out the **inquiry, investigations**, and to meet legal requirements.
2. To protect the identity of individuals accused of misconduct, a numbering system will be adopted and assigned. When possible, all deliberations, reports, and correspondence will use this number to avoid unnecessarily identifying individuals.
3. Although best efforts will be made, due to other disclosure requirements or University responsibilities, to the nature of any hearing proceedings or as otherwise required by law, anonymity cannot be guaranteed.

5. Allegation.

- 4.1 **Allegations of research misconduct** may come from any source, whether associated with Marshall University or not. Such **allegations** may be filed orally or in writing, and may be filed anonymously.
- 4.2 Anonymity of the **complainant** may be preserved if the **RIO**, after reviewing the **allegation** and available information, determines that it is necessary to protect the **complainant** and that the identity of the **complainant** is not necessary to the **inquiry**. In this event, the **complainant** is Marshall University. There may also be instances where the University is the **complainant** because the identity of the **complainant** is unknown but the **evidence of research misconduct** is substantial.
- 4.3 **Complainants** should file **allegations** only when there is sufficient credible **evidence** to support the accusation. **Allegations of research misconduct** are serious charges and the filing of such **allegations** not

made in **good faith** are an abuse of the procedures set forth in this policy, and may result in disciplinary action under other University rules, policies or procedures. The **deciding official** will determine whether any administrative action should be taken against the **complainant** should an **allegation** lack **good faith**.

- 4.4 **Allegations** must be filed with appropriate University Officials and immediately referred to the **research integrity officer** to trigger the procedures described in the policy.
- 4.5 If **allegations** are made against more than one individual, a separate decision will be reached regarding each individual.
- 4.6 If the **allegation** is against a person who is no longer an employee of Marshall University, the requirements of written notice and an opportunity to answer to the charge of **research misconduct** will be observed as far as is practical, but the failure of the **respondent** to answer or to participate in the **investigation** will not deter the **inquiry** and **investigation**.
- 4.7 **Allegations** based upon misconduct that occurred seven (7) years or more will not be inquired into unless the circumstances indicate that the conduct was not discoverable earlier; that at any time the health or safety of the public is in jeopardy; or that the **respondent** has continued the misconduct through citation, republication, or other use.
- 4.8 If, in answer to an **allegation**, the **respondent** admits to **research misconduct**, the **respondent** will be asked to sign a statement attesting to the occurrence and the extent of the misconduct. An **investigation** will commence with the **respondent's** admission serving as the **inquiry** report.

5. Conflict of Interest.

- 5.1 The integrity of the **inquiry** and **investigation** process will be maintained by avoiding the real or apparent **conflict of interest**. Meaning that no individual or group—directly or indirectly associated with the conduct of the review—shall in fact or by appearance gain materially or otherwise from the outcome.
- 5.2 The University will take reasonable steps to prevent real or apparent **conflicts of interest** between the persons conducting the **inquiry** and the **respondent**. This includes as part of the selection process to serve on a panel, an **inquiry** into potential sources of real or apparent conflicts with the **respondent**.

- 5.3 Should the **respondent** believe any of the committee members has a **conflict of interest**, the burden of proof is on the **respondent** to demonstrate such conflict by **clear and convincing evidence**.
- 5.4 If it is discovered that a member of the misconduct panel failed to disclose a **conflict of interest** or if a conflict arises during the **proceeding**, a replacement will be designated. The replacement will be fully briefed on the **proceeding** so the process can continue without starting over.

6. Inquiry.

- 6.1 After an **allegation** is sent to the **RIO**, the **RIO** will then conduct an informal **inquiry**. The purpose of the **inquiry** is to conduct preliminary information gathering and fact-finding to determine if an **allegation** has enough substance to warrant an **investigation**. The purpose is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible.
- 6.2 When the **RIO** has reached a conclusion as to whether the **allegation** has sufficient **evidence** to warrant an **investigation**, the **RIO** will prepare a preliminary **inquiry** report and provide a copy to the **respondent**.
- 6.3 If the final decision from the **inquiry** is that an **investigation** is warranted, the **RIO** will inform any cognizant oversight agency or funding entity of the **allegation**, as required by contract or law, and will keep the oversight agency or funding entity informed as required.

7. Investigation.

- 7.1 The **investigation** is not intended to be a formal legal proceeding. **Respondent** may, at **respondent's** expense, obtain the advice of counsel in connection with such **proceedings**. If **respondent** chooses to be represented by an attorney, notice must be given to the **RIO** at least five (5) business days prior to the scheduled meeting and a University assigned advisor will no longer be provided. If counsel is not retained, the **respondent** may ask for an advisor to be assigned from their department to assist in the **investigation**, which will be appointed from the faculty who is not part of the **investigation**.
- 7.2 The purpose of the **investigation** is to determine whether the **allegation** constitutes **research misconduct** based upon a **preponderance of the evidence** standard and to recommend the appropriate corrective actions or sanctions.
- 7.3 During the **investigation**, diligent efforts will be made to ensure the

investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the **allegation**.

- 7.4 The **investigation panel** will interview each **respondent**, each **complainant** (if known), 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**.
- 7.5 The **investigation panel** must consider if (a) there was a significant departure from accepted practices of the relevant research community; and (b) the misconduct was committed intentionally, knowingly, or recklessly; and (c) the allegation was proven by a preponderance of the evidence. The **investigation** should be completed within 120 days of its initiation.
- 7.6 If the **investigation panel** determines that research misconduct is substantiated by the **investigation** findings, the **RIO** will make recommendations on administrative actions that can be taken against the **respondent**.
- 7.7 If the **investigation panel** determines the **respondent** did not commit **research misconduct**, Marshall may, to the extent possible, work with the **respondent** to rectify any injury done to the reputation of **respondent**, including providing a letter of the results of the **investigation**.

8. Appropriate Expertise.

- 8.1 The **investigation panel** will have the appropriate expertise to ensure a thorough evaluation of the **evidence**. The panel may include consultants, from within or outside of Marshall, with the appropriate expertise to aid the panel in evaluating the **evidence** and/or recommending appropriate corrective actions or sanctions. The panel will be chosen by Marshall.
- 8.2 The panel will include at least one researcher from the same discipline as **respondent**.
- 8.3 In cases where the misconduct involves a human subject or animal usage then a member of the University Institutional Review Board (IRB) or the Animal Care and Use Committee (IACUC), may be appointed as an additional member of the panel.

9. Corrective and Administrative Actions.

- 9.1 Interim actions may be taken by Marshall while an **inquiry** or **investigation** is on-going. Marshall will determine whether in the interest

of protecting involved parties, to protect research funds, or if there is reason to believe that the health or safety of research subjects, patients, students and/or staff or others are endangered, administrative action might be taken. Such action is not considered a finding of **research misconduct** nor disciplinary action.

- 9.2 Following a finding of **research misconduct**, a sanction may be imposed by Marshall, up to and including termination or expulsion from Marshall.
- 9.3 The seriousness of the misconduct, along with the nature of the misconduct (e.g., **knowingly, intentionally, recklessly**), any **mitigating factors**, whether the incident was isolated, or part of a pattern, will be factors considered in determining sanctions.

10. Correction of the Research Record.

- 10.1 Marshall has the responsibility to identify whether correction or retraction of published or submitted work is required, to ensure the integrity of the scientific record is maintained.
- 10.2 If **research misconduct** is found under this policy and **falsified, fabricated, or plagiarized research** has been published or submitted, including within grant proposals, the **respondent** must work with the **RIO** and any other **institutional officials** or publishers to correct, retract, or withdraw the **research record**.
- 10.3 If **research misconduct** is not found under this policy, but **falsified, fabricated, or plagiarized research** has been published or submitted, including within grant proposals, the **respondent** will work with the **RIO** to correct, retract, or withdraw the **research record**.
- 10.4 Corrections or retractions occurring before a determination of whether **research misconduct** occurred will not stop the **proceeding**.

11. Retaliation.

- 11.1 Marshall does not tolerate **retaliation** in any form against individuals who participate in a **research misconduct proceeding**.
- 11.2 **Retaliation** will be referred to the proper office for appropriate University disciplinary procedures which may include termination.

12. Reopened Complaints.

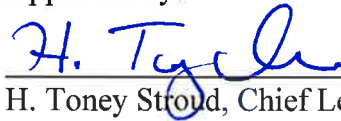
- 12.1 Any **allegation** that has been closed with a determination that **research misconduct** did not occur may be reopened only if, in the opinion of the

RIO in consultation with the **deciding official**, new and potentially significant information of **research misconduct**, not previously considered, has been presented.

13. Official Records of Research Misconduct Proceedings.

- 13.1 The official University record of **research misconduct proceedings** will include all reports, electronic recordings, computer files, documentary **evidence**, or other relevant matter collected and used by the committee.
- 13.2 In all closed **research misconduct proceedings** the official Marshall record will be kept in the files of the vice president for research.
- 13.3 The official Marshall record will be kept for a minimum of seven (7) years or as required under the applicable University data and record retention policies.

Approved by:



H. Toney Stroud, Chief Legal Officer

Date:

5-28-2024