



New Mexico Tech Procedures for Handling Allegations of Research Misconduct

Introduction

This document details New Mexico Tech's (NMT's) process for responding to an alleged violation of NMT's Research Misconduct Policy. Confidentiality regarding allegations, including the identity of the complainant, respondent, and witnesses will be maintained by limiting information to those with a legitimate need to know.

Definitions of Terms

Allegation: A disclosure of possible research misconduct to a Research Integrity Officer, (RIO) by any means of communication.

Assessment: A determination made by the RIO about whether an allegation will move on to the inquiry phase. For an inquiry to be warranted, an allegation must be specific and credible, and, if substantiated, would meet the definition of research misconduct.

Chair of the Inquiry Committee: Organizes and presides over all meetings of the committee, coordinates communications between the committee and the RIO, and ensures that the inquiry process is conducted efficiently, impartially, and in alignment with institutional and federal guidelines. The chair is also responsible for submitting the final inquiry report with appropriate recommendations to the RIO.

Chair of the Investigation Committee: Facilitates all activities of the committee, including scheduling meetings, reviewing evidence, and conducting interviews. Ensures adherence to the defined scope, timelines, and standards of due process and serves as the primary liaison to the RIO. The chair also oversees the drafting and submission of the final investigation report to the RIO for institutional review.

Complainant: The person(s) who makes an allegation of research misconduct. Once the complaint is made and the necessary information has been provided to the RIO, the complainant's role in a research misconduct proceeding is the same as that of any other witness.

Complaint: A report of a researcher's activity that a complainant believes may constitute research misconduct.

Conflict of Interest: A conflict of interest exists when a person participating in the research misconduct proceeding has a substantial connection or interest related to the complainant or respondent that might bias or otherwise threaten the integrity of the proceeding. This includes, but is not limited to, personal, professional, and financial conflicts of interest.

Evidence: Any relevant document, tangible item or testimony offered or obtained during a research misconduct proceeding that may assist in proving or disproving the research misconduct allegation. Evidence may include traditional (paper) and electronic documents, and also tangible research material and equipment such as samples, slides, microscopes, computers, and data storage devices.

Expert: An individual with subject matter or technical expertise who advises and supports the RIO and the committees during a research misconduct inquiry or investigation. The RIO, inquiry committee, and investigation committee are specifically authorized to consult such experts as they believe necessary. The Vice President of Research will confidentially manage the request for an expert, and may recommend and appoint a subject matter expert who is internal or external to New Mexico Tech.

Fabrication: Fabrication is making up data or results and recording or reporting them.

Falsification: Falsification is 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.

Good Faith: Good faith as applied to a complainant or witness means having a belief in the truth of one's allegation or testimony. Good faith relies on a "reasonable person standard." The standard requires that a reasonable person under similar circumstances could have believed the allegation to be true based on the information known to the complainant or witness at the time. An allegation is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by impartially carrying out the duties assigned according to the applicable policy and procedures. A committee member does not act in good faith if their acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest that impact their impartiality regarding a research misconduct proceeding.

Inquiry: Preliminary information gathering and preliminary fact finding performed by the inquiry committee to determine whether an investigation is warranted.

Inquiry Committee: Responsible for conducting an initial review of the allegations to determine whether an investigation is warranted. The committee evaluates the credibility of the complaint and assesses whether the alleged actions meet the federal definition of research misconduct. They are expected to complete their work and submit a written report to the Research Integrity Officer (RIO) within the prescribed timeline of 90 days. Committee members must maintain confidentiality and uphold procedural fairness throughout the process.

Intentionally: A person acts intentionally when acting with the purpose of committing the act in question.

Investigation: The formal development of a factual record and the examination of that record to render a finding of research misconduct, or a decision that the evidence does not prove by a preponderance of evidence that research misconduct occurred

Investigation Committee: Conducts a comprehensive examination of all relevant evidence to determine whether research misconduct occurred, applying a 'preponderance of the evidence' standard. The committee interviews the Complainant, Respondent, and key witnesses as part of the investigation. They are required to maintain detailed documentation of findings, rationale, and the procedures followed. Upon completion, the committee will submit a final report to the RIO that includes recommended findings and any recommended sanctions.

Knowingly: A person acts knowingly when they know or reasonably should know that their actions constitute or will result in research misconduct.

Notice: A time bound written communication served in person, by email, or USPS mail to inform any party of a research misconduct proceeding.

Plagiarism: Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Preponderance of the evidence: The evidentiary standard necessary to support a finding in a research misconduct investigation. The burden of proof rests upon the institution to demonstrate that it is more likely than not that research misconduct occurred, and that the respondent is responsible. The evidence presented has shown that the version of facts set forth in the allegation is more likely than not true, and that the misconduct was committed intentionally, knowingly, or recklessly. To make a finding of research misconduct, the Investigation Committee must find that:

- There is a significant departure from accepted practices of the relevant research community; and
- The misconduct was committed intentionally, knowingly, or recklessly; and
- The allegation is proven by a preponderance of the evidence.

Recklessly: A person acts recklessly when the person knows of and disregards a substantial risk that his/her action(s) will result in research misconduct and this disregard is a gross deviation from the actions of a reasonable person in the same situation.

Research: A systematic investigation, including development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. (45CFR46.102(d)).

Research Integrity Officer (RIO): The RIO is an institutional official, appointed by the Vice President for Research, who is responsible for overseeing procedures related to research integrity.

Research Misconduct: Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

Research Misconduct Proceeding: The process by which NMT handles a research misconduct complaint or allegation pursuant to the Research Misconduct Policy.

Research Record: Research record means the record of data or results that embody the facts resulting from scientific inquiry. Data or results may be in physical or electronic form. The research record includes, but is not limited to, the record of data and results that embody the facts resulting from the research, as well as the record of methods and analysis that led to those data or results. The research record encompasses not only traditional and electronic documents, but also tangible research material and equipment such as samples, slides, and other evidence, as well as research proposals and presentations.

Respondent: The person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

Retaliation: An adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to:

- A good faith allegation of research misconduct; or
- Good faith cooperation with a research misconduct proceeding.

Overview of Research Misconduct Proceedings

Allegation

- An allegation of research misconduct may be made by anyone involved in or with direct knowledge related to proposing, performing, or reviewing research, or in reporting research results at NMT.
- The allegation shall be made to the Research Integrity Officer (RIO).
- The procedure below will apply to every allegation of research misconduct received by the RIO.
 - The RIO receiving the allegation will document the necessary information surrounding and supporting the allegation.
 - To the extent possible, consistent with a thorough, competent, objective and fair inquiry and/or investigation, disclosure of the identities of the Complainant, Respondent, any witnesses, and those serving on any Investigation Committee, is limited to those who need to know.

Assessment

When a written allegation is received by a RIO, the RIO will open a file and begin to compile a record. If the allegation is oral, the allegation shall be written out and signed by the person(s) bringing the allegation. Then, as above, the file and record will be initiated. The RIO will assess the allegation using the following criteria.

- The allegation must be credible and specific, and
- the alleged conduct, if substantiated, must meet the definition of research misconduct outlined in the NMT Research Misconduct Policy (fabrication, falsification, or plagiarism).

If the allegation does not meet the above criteria, then the proceeding ends at the initial assessment.

If the allegation meets the above criteria, an Inquiry shall commence.

Inquiry

An Inquiry is the preliminary information gathering, fact finding stage of the NMT response to a credible and specific allegation of conduct that falls within the definition of research misconduct: “Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.”

The following steps are required for this phase of the response to an allegation of Research Misconduct.

- Notice of Inquiry must be made to the Respondent.
- The respondent must submit a written response to the inquiry within fourteen (14) calendar days of the notice of allegation.
- Records and evidence must be gathered and secured concurrently with notice to the respondent. If original records or evidence cannot be sequestered, then relevant copies may be used.
- Confidentiality regarding allegations, including the identity of the Complainant, Respondent, and witnesses will be maintained by limiting information to those with a legitimate need to know.
- A review of the evidence gathered is performed by the Inquiry Committee. Subject matter experts may be utilized in this phase.

- An Inquiry Report is written by the inquiry committee chair with assistance from the RIO within sixty (90) days of notice to the respondent (unless a formal exception is granted by ORI), and a copy is provided to the respondent. The copy of the Inquiry Report provided to the respondent may be redacted to protect the identities of the complainant and any witnesses.
- If evidentiary criteria warranting an Investigation are met, then an investigation will commence. If not, then this is the end of the proceeding.
- If the respondent has suffered reputational damage as a result of the Inquiry, they may request restoration of their reputation. The VPR may take and recommend reasonable action to achieve that result.

Investigation

The investigation process must begin within thirty (30) calendar days after the RIO issues the final Inquiry Report.

An Investigation Committee is formed, and the committee develops the factual record, examines that record, and provides a written analysis of all relevant evidence. The Research Integrity Officer will write the final Investigation Report using the information and analysis provided by the Investigation Committee. The committee makes an informed recommendation as to whether misconduct occurred. The deciding official (Vice President for Research) then determines whether a finding of Research Misconduct is warranted.

Requirements for a Finding of Research Misconduct:

- The committee concludes that fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results has more likely than not occurred (the allegation is proven by a preponderance of the evidence).
- The Vice President of Research finds that there was a significant departure from accepted practices of the relevant research community; and
- The Vice President of Research finds that the misconduct was committed intentionally, knowingly, or recklessly.

Investigation findings will be reported and sanctions will be assigned, where appropriate.

Detailed Procedures for Handling a Research Misconduct Allegation

Allegation Intake

A complaint of research misconduct shall be made to the RIO. The person bringing the allegation may discuss the matter with the RIO informally prior to bringing a formal allegation. The RIO will inform the complainant about the prohibition on retaliation in relation to an allegation.

An allegation may be made through any means of communication. A written complaint is preferred. If an oral complaint is made, the RIO will instruct the complainant to:

- Write the allegation, including any of the following items that the complainant has direct knowledge of:
 - List any/all potential witnesses

- Contact information for themselves, the respondent(s), any witnesses, the department chair or center director, the Principal Investigator (PI), or Project Manager (PM).
- Anyone they may have communicated this matter to prior to making this allegation and their contact information as well.
- The name of the project/experiment
- The name of the grant/award, if applicable
- The funding agency, if applicable
- The time frame surrounding the allegation
- Whether publication(s) have been submitted in connection with the research,
 - the name of the publication and all of its authors.
 - The name of the journal where there is a publication.
- Where is the evidence located?
- Will accessing the evidence require keys, passwords, entry codes?
- What form(s) does the evidence consist of?
 - Paper, electronic, physical samples, computer storage devices, data housed on specialized equipment.
- Are any devices, computers, equipment shared with others not involved in this matter?
- Any information or surrounding circumstance that may tend to support or cast doubt upon the allegation.
- Whether the complainant is apprehensive about retaliation, or is experiencing potential or actual coercion, intimidation etc.
- Sign and date the allegation.

After the complainant has completed the written allegation, the RIO will address any questions the complainant may have.

At this time the complainant should be instructed to keep this matter strictly confidential. Further, they should be informed of the process for these proceedings, their current and future role in the proceedings, what they may expect in terms of ongoing communication and the probable timeline for the proceedings. If they do not already have contact information for the RIO, this will be provided. A complainant may also be referred to other appropriate offices at NMT, including counseling services for students and Employee Assistance Program (EAP) for employees.

Assessment

When a written allegation is received by a RIO, they will open a file and begin to compile a record.

The RIO will assess whether a complaint constitutes an allegation of research misconduct by determining whether:

- The described conduct/actions, if substantiated, fall within the definition of research misconduct outlined in the NMT Research Misconduct Policy:
 - plagiarism, falsification, or fabrication in proposing, performing, or reviewing research, or in reporting research results.
- The complaint is sufficiently credible, specific, and significant to warrant an inquiry.

The RIO may confer with the complainant, any witnesses, or others with subject matter expertise, but is not required to do so. All individuals consulted during the assessment will be instructed to keep the matter confidential.

If the RIO determines that the complaint does not meet the above requirements of a research misconduct allegation, the matter ends here, and no further action is required. Notification may be made to the complainant that the conduct did not meet the definition.

If the RIO determines that the complaint meets the requirements of a research misconduct allegation, then the RIO will initiate an Inquiry.

If the complaint does not meet the definition of research misconduct, but is addressed by another NMT policy, then the matter may be referred to the appropriate office at NMT.

The Final Rule, or updated regulation specifies that institutions must document the assessment process to permit a later review by ORI of the reasoning behind their determination, particularly if they decide not to proceed to an inquiry. The Assessment Report should include the following details:

- The complainant and respondent names and position titles;
- Content of the allegations;
- PHS funding sources, proposals, research, or activities; and
- A sufficiently detailed justification of the decision not to proceed to an inquiry.

The documentation of the Assessment becomes part of the institutional record, and must be retained and secured for a minimum of seven years after completion of the proceedings. This institutional record may be requested by ORI for oversight review.

Inquiry

An inquiry is the preliminary information gathering, fact finding stage of the NMT response to a credible and specific allegation of research misconduct, that falls within the definition of research misconduct under the NMT Research Misconduct Policy.

At this point in the proceedings, notice must be given to the respondent(s), with concurrent sequestration of records and evidence. All potentially relevant records and evidence will be sequestered and secured.

The following steps are required for this phase of the response to an allegation of Research Misconduct.

- An Inquiry Committee is formed by the Vice President for Research and the RIO. The Committee will consist of three people who will be trained on procedures at the time of appointment.
- Notice of inquiry is served to the Respondent.
- The Respondent is informed/reminded of their obligations under the Research Misconduct Policy to cooperate fully with this proceeding and cautioned against any and all forms of retaliation/intimidation against the complainant, witnesses and committee members.
- Sequestration
 - All pertinent records and evidence must be gathered and secured concurrently with notice to the respondent.

- Work may be interrupted while records and evidence are secured.
 - Copies of hard drives and devices will be made as quickly as possible to limit interference with ongoing research.
 - Intentional destruction or obfuscation of records subject to sequestration are a violation of the Research Misconduct Policy.
 - All records and evidence will be inventoried and a copy of the inventory will be signed by the RIO and the respondent.
- The respondent must provide a detailed written response to the allegation, including details and location of evidence supporting the response, within fourteen (14) days of the notice of allegation.
 - A review of the evidence gathered is performed by the Inquiry Committee.
 - If the allegation has sufficient substance or the research record needs to be evaluated in greater detail to warrant an investigation, then an Inquiry Report will be written by the committee chair with assistance from the RIO, indicating an investigation will commence.
 - If an Investigation is not warranted, then an Inquiry Report will be written indicating the end of the proceeding.
 - The Inquiry report shall be completed within 90 days of when the inquiry commences, unless a specific exception is granted.
 - For purposes of confidentiality, the names of the complainant and any witnesses, along with other identifying information may be redacted from the copy of the Inquiry Report provided to the respondent.
 - The Inquiry Report shall include:
 - All records considered or relied upon during the inquiry, including research records and the transcripts of any transcribed interviews conducted during the inquiry.
 - Information the respondent provided to the institution,
 - Detailed documentation and the reasoning behind any decision not to move to an investigation.

Investigation

When an inquiry determines an investigation is warranted, the investigation shall commence. The investigation process must begin within thirty (30) calendar days after the final Inquiry Report is issued. The prescribed timeline for the investigation is one hundred and eighty (180) days. If necessary, the Investigation Committee and NMT may request an extension from the Office of Research Integrity (ORI), in writing, providing the circumstances that warrant the additional time.

An investigation committee will be formed by the Vice President for Research (VPR) and the Research Integrity Officer (RIO). Three (3) committee members will be chosen and trained on the procedures at the time of appointment. The respondent and complainant will be notified of the proposed Committee members and given seven (7) calendar days to respond with any objection they may have.

The respondent may object to any proposed Committee member for any reason that may impact the fairness of the proceedings. That reason must be thoroughly explained in writing to the VPR within seven (7) days of receipt of the list of proposed Committee members. The VPR will evaluate the objection(s), and if they find it meritorious, (i.e., any conflict of interest, personal animus, rivalry), they will remove that individual. If a proposed Committee member is removed for cause, then an alternate Committee member is proposed by the VPR, with the same notice and objection window available to the respondent. If the complainant has a valid objection to a proposed Committee member, that objection shall be considered, but removal of the proposed Committee member is to be weighed against the likelihood of bias.

The Committee, once formed, will meet with the RIO to receive the records, the Inquiry Report, ask any questions and be advised of any necessary information. The RIO will continue to liaise for the Committee with the complainant, the respondent, and any witnesses. The RIO will offer assistance to the Committee with any logistical matters, such as scheduling and recording or transcription of interviews. The RIO will not actively participate in the deliberations, the interviews, or the evaluation of the record.

The Committee may consult subject matter or technical experts as necessary and as approved by the VPR, with attention to screening for and protecting against bias and conflict of interest. The committee will interview witnesses, the respondent, and any other person with relevant information connected to the alleged misconduct. All investigative interviews will be recorded or transcribed and the recordings/transcripts then made available to the interviewee for correction if necessary.

The respondent may have counsel, or a non-attorney advisor present during any part of the proceedings, but that attorney or individual may not take part directly in the proceedings.

The Committee develops the factual record, by diligently pursuing all significant issues and leads that are determined to be relevant to the investigation. If the Committee becomes aware of information during the course of the investigation that gives rise to an additional possible allegation of research misconduct, the Committee shall consult the RIO to determine whether the allegation should be added to the current investigation. Taking into account the information's credibility, specificity, and significance, the committee and the RIO may add the allegation to the current investigation. If added, this allegation can be included with any current allegation, or it can be set forth in a separate allegation.

When the Committee is satisfied that as much evidence as possible has been collected, they will examine the evidence, including any exculpatory evidence presented by the respondent. They may ask for additional records and receive additional offered evidence when presented with an explanation for the delay. The Committee will weigh the merits of all the evidence, and analyze whether each piece of evidence makes it more or less likely that the respondent(s) engaged in research misconduct, applying the relevant standards set forth below and in the Research Misconduct Policy. The RIO will assist in summarizing the relevant evidence to include in the investigation report. The RIO also provides an investigation report template for the committee to follow when drafting evidence summaries.

The committee makes a recommendation whether a respondent should be found to be responsible for research misconduct, on each allegation. The committee must make their recommendation unanimously on each allegation. The Deciding Official (VPR) will examine the investigation report and make a finding. If the VPR does not concur with the recommendation of the committee, reasoning shall be provided, in detail, explaining the basis for rendering a decision different from that of the Investigation

Committee. Where applicable, this reasoning shall be included in the institution's letter transmitting the report to the Office of Research Integrity (ORI) or other funding agency components. The VPR may also return the report to the Investigation Committee for further fact-finding and or analysis. The RIO completes the final report.

All interview transcripts shall be made available to the respondent(s). They may be redacted to protect the identity of the witness(es).

When a final decision on the case has been made, the respondent will be notified in writing of the findings.

The entire investigative record shall be provided to the ORI or other funding agency components. The investigative record includes:

- documentation of the assessment;
- the inquiry report and all records considered or relied on during the inquiry;
- the investigation report and all records considered or relied on during the investigation; all transcripts;
- decisions by the Institutional Deciding Official;
- records of any appeals;
- an index listing all the research records and evidence that the institution compiled during the research misconduct proceeding; and
- a general description of the records that were sequestered but not considered or relied on.

Requirements for a finding of research misconduct:

- The allegation is proven by a preponderance of the evidence, that is, it is more likely than not that fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results has occurred.
- There was a significant departure from accepted practices of the relevant research community; and
- The misconduct was committed intentionally, knowingly, or recklessly.

Institutional sanctions for findings of research misconduct will be assigned by the Vice President for Research, in consultation with the RIO. Sanctions may include, but are not limited to:

- Mandatory training and/ or coaching.
- Requirement for institutional review of any funding proposals and/ or publications utilizing New Mexico Tech (NMT) resources, or listing NMT as an affiliation.
- Prohibition or suspension from submitting new NMT research funding proposals.
- Prohibition from/ removal from serving as a principal investigator (PI) on NMT research.
- Retraction of proposals
- Denial of tenure and/ or promotion.
- Termination of employment for non-tenure-track employees.
- Termination of appointment with tenure, or of probationary appointment before the end of the specified term (dismissal for cause), as per the Rules Governing Academic Freedom and Tenure.

A finding of research misconduct may be appealed to the University President for procedural error; new evidence; or a finding inconsistent with the above requirements. The President's decision is final.

Any findings of research misconduct will be reported to the respondent's supervisor, cognizant funding agency, journals containing related published works, and any other entities and executive leadership as advised by legal counsel.