

Tennessee Technological University
Policy No. 780



Effective Date: January 1, 2018

Policy No.: 780

Policy Name: Misconduct in Research

I. Purpose

Tennessee Tech realizes the importance of research not only to Tennessee Tech but to society as a whole as undiscovered knowledge is pursued through sound scientific principles. Therefore, research misconduct, in any form, which severely impedes the integrity of science, the researcher, and Tennessee Tech, poses a serious threat to the entire research endeavor.

Toward the pursuit of integrity in research and as a requirement of the Public Health Service (PHS), Tennessee Tech has developed a policy and procedures to respond to allegations of misconduct in scientific research by an employee. The policy and procedures are mandated as a part of the process to apply for federal assistance to conduct research projects. Tennessee Tech has developed a broader policy and procedures that encompass responding to allegations of misconduct in all areas of research. All aspects of the requirements of the PHS are incorporated into the policy and procedures for Tennessee Tech.

II. Review

This policy will be reviewed every three years or whenever circumstances require review, whichever is earlier, by the Vice President for Research and Economic Development or his/her designee, with recommendations for revision presented to the Administrative Council and University Assembly.

III. Scope

- A.** These policies and procedures shall apply to all instances of alleged or apparent misconduct involving research, research training, and other activities related to research that are conducted under the auspices of Tennessee Tech. These policies and procedures apply to all individuals involved in research in association with Tennessee Tech, including faculty, administrators, guest researchers, volunteers, technicians, collaborators, other staff, and students.
- B.** Tennessee Tech will investigate and respond appropriately to allegations of misconduct in research.
- C.** For purposes of this policy, misconduct or misconduct in research occurs when there is fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.
- D.** The burden of proof of an allegation of misconduct in research lies with Tennessee Tech.

IV. Definitions¹

- A.** Research misconduct: fabrication, falsification, plagiarism, or other serious deviation from commonly accepted practices in the scientific community for proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences in opinion.
- B.** For purposes of this policy statement, a modified version of the definition of misconduct included in PHS regulation codified at 42 CFR Part 50, Subpart A will be used. The PHS definition is expressed in terms of misconduct in scientific research. The definition utilized in these policies and procedures eliminates reference to “scientific” so that it is clear that the definition includes all research carried out under the auspices of Tennessee Tech.
- C.** Serious deviation from accepted practices: includes but is not limited to:
 - 1.** Abusing confidentiality, including the use of ideas and preliminary data gained from:
 - a.** Access to privileged information through the opportunity for editorial review of manuscripts submitted to journals; and
 - b.** Peer review of proposals being considered for funding by agency panels or by internal committees.
 - 2.** Stealing, destroying, or damaging the research property of others with the intent to alter the research record; and
 - 3.** Directing, encouraging, or knowingly allowing others to engage in fabrication, falsification, or plagiarism.
- D.** Allegation: any written or oral statement or other indication of possible misconduct in research made to an official at Tennessee Tech.
- E.** Complainant: a person who makes an allegation of misconduct in research or of inadequate Tennessee Tech response thereto.
- F.** Conflict of Interest and Commitment: the real or apparent interference of one person’s interest with another, where potential bias may occur due to prior or existing personal or professional relationships.

¹Most of the definitions used throughout this document are modified versions of those appearing in the current version of the “Instructions for Conducting Scientific Misconduct Inquiries and Investigations,” by the Office of Research Integrity of the U.S. Public Health Service.

- G.** Deciding Individual: The Vice President for Research and Economic Development will make the final determination on allegations of research misconduct and any responsive Tennessee Tech actions.
- H.** Fabrication: making up data or results and recording or reporting them.
- I.** 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.
- J.** Good Faith Allegation: an allegation of misconduct in research made by a Complainant who honestly believes that misconduct may have occurred. A good faith allegation need not be objectively made nor be subsequently verified to be made in good faith. However, a Complainant who disregards evidence that disproves an allegation has not made the allegation in good faith.
- K.** Inquiry: information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct in research warrants an investigation.
- L.** Investigation: the formal examination and evaluation of all relevant facts to determine, based on a preponderance of evidence, if misconduct in research has occurred, and, if so, the responsible person and the seriousness of the misconduct.
- M.** Investigator: any individual, including but not limited to any person holding an academic or professional staff appointment at Tennessee Tech, who is engaged in the design, conduct, or reporting of research.
- N.** Plagiarism: appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- O.** Research: any systematic investigation, including research development, testing, and reporting, designed to develop or contribute to generalizable knowledge. The term includes basic research, applied research, and research training activities.
- P.** Research Integrity Officer (RIO): the Vice President for Research and Economic Development or the individual designated to carry out the RIO's duties.
- Q.** Research Misconduct or Misconduct in Research: Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. It also includes failure to comply with federal

requirements for protecting researchers, human and animal subjects, and the public. It does not, however, include honest error or honest differences in interpreting or judging data.

- R. Research Record:** refers to any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research.
- S. Respondent:** the person against whom an allegation of misconduct in research is directed, or the person who is the subject of the inquiry or investigation. There can be more than one Respondent in any inquiry or investigation.
- T. Retaliation:** any response by Tennessee Tech or an employee that adversely affects the employment or other status of either a Complainant who has in good faith made an allegation of misconduct in research or inadequate Tennessee Tech response thereto, or a witness who has cooperated in good faith with an investigation of such allegation.
- U. Witness:** anyone who provides information about the allegation during a hearing.

V. Policy

- A.** In carrying out its mission, Tennessee Tech recognizes that it has a responsibility to support all of the research activities of its faculty, students, and staff. Tennessee Tech must make every effort to ensure that high ethical standards are maintained in the research that is performed under its auspices. The policies and procedures described in this document are designed to maintain the integrity of all research and related activities at Tennessee Tech.
- B.** All employees or individuals associated with Tennessee Tech are required to report observed, suspected, or apparent misconduct in research to the RIO.
- C.** If the RIO is suspected of involvement in the misconduct of research, the allegation shall be reported to Tennessee Tech's President and Provost.
- D.** If an individual is unsure whether a suspected incident of misconduct falls within the definition, he/she should contact the RIO to discuss the suspected misconduct informally.
- E.** If the circumstances described by the individual do not meet the definition of misconduct in research, but are perceived as a problem needing resolution, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

VI. Rights and Responsibilities

A. Research Integrity Officer

1. The Vice President for Research and Economic Development will serve as the Research Integrity Officer (RIO) and shall have primary responsibility for adherence to the procedures set forth in this policy.
2. If the Vice President for Research and Economic Development is a Respondent, has a conflict of interest to an allegation of misconduct in research, or is otherwise disqualified from acting as the RIO, the President shall designate another individual to carry out the responsibilities of the RIO, relative to the allegation.
3. The RIO shall assist inquiry and investigation committees and all institutional personnel in order to assure compliance with these procedures and with applicable standards imposed by government or external funding sources.
4. The RIO shall maintain files of all documents and evidence and is responsible for the confidentiality (consistent with federal and state laws) and the security of files.
5. The RIO shall report, as required by any applicable federal, state, or other regulations (e.g., the Office of Scientific Integrity of the PHS), the status of any investigation.

B. Complainant

1. At any time, an employee of Tennessee Tech may have discussions and consultation about possible concerns of misconduct with the RIO or academic dean, and will be counseled about appropriate procedures to report allegations. Such conversations shall be confidential to the extent allowed by federal or state law.
2. The Complainant is responsible for making allegations in good faith, maintaining confidentiality (consistent with federal and state laws), and cooperating with an inquiry or investigation.
3. The RIO will monitor the treatment of individuals who bring allegations of misconduct or inadequate Tennessee Tech response thereto, or who cooperate with inquiries or investigations.
4. If the Complainant requests anonymity, Tennessee Tech will make an effort to honor the request within applicable statutes, policies, and regulations of federal and state law. Tennessee Tech will make every effort to protect the

positions and reputations of those persons who, in good faith, make allegations or serve as witnesses.

5. The inquiry committee may speak with the Complainant during the inquiry process and the Complainant shall have an opportunity to testify before the investigation committee and to review portions of the investigation reports related to that testimony, and to be informed of the results of the inquiry and investigation.
6. The RIO will ensure that those making an allegation in good faith or cooperating with an inquiry or investigation into an allegation of misconduct will not be retaliated against in the terms and conditions of their employment or other status at Tennessee Tech. Instances of apparent retaliation will be reviewed by the Affirmative Action Officer (AAO) for appropriate action or referral to another Tennessee Tech official. If the AAO has been involved or has a conflict of interest, the President and Provost will assign an appropriate person to review the situation. If retaliations are confirmed, Complainants will be consulted regarding appropriate corrective actions to be taken on their behalf to restore or protect their positions or reputations.

VII. Respondent

1. The Respondent shall be informed of the allegations, and notified in writing of the final determinations and resulting actions.
2. Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the subject(s) of the inquiry or investigation and confidentiality to the extent possible consistent with protecting public health and safety. The inquiry or investigation will be carried out in keeping with the Policies of Tennessee Tech as well as state and federal laws. Individuals who are accused of misconduct in research shall also have the opportunity to be interviewed by and present evidence to the inquiry and investigation committees, and to review the inquiry and investigation reports, and to have the advice of counsel. The hearing is administrative in nature; consequently the Respondent's counsel may not question individuals or speak for the Respondent.
3. The Respondent is responsible for maintaining confidentiality consistent with federal and state law and cooperating with the conduct of an inquiry or investigation.
4. The inquiry committee may speak with the Respondent during the inquiry process and the Respondent shall have an opportunity to testify before the investigation committee and to review portions of the investigation reports related to that testimony, and to be informed of the results of the inquiry and investigation.

VIII. Procedures

A. The process for handling the allegations of alleged research misconduct is in the flowchart found under the Policies and Award Management Regulations and Procedures page of the Office of Research and Economic Development website.

B. Preliminary Assessment

- 1.** Upon receiving an allegation of misconduct in research, the RIO shall immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry. The RIO will advise the President if he/she has a conflict with the matter.
- 2.** In assessing the allegation, the RIO also shall determine whether external support or applications for external support for research are involved, and whether the allegation falls under the definition of misconduct in research as defined in Section II of this document.
- 3.** The RIO will inform the Provost and President of the assessment and recommend, if necessary, that the matter be referred to an inquiry committee immediately.

IX. Procedures Related to an Inquiry and the Inquiry Committee

- A.** The purpose of the inquiry is to evaluate the situation to determine whether there is sufficient evidence of possible misconduct in research to warrant an investigation. The purpose of the inquiry is NOT to reach a final conclusion as to whether misconduct occurred or who was responsible.
- B.** The charge to the Inquiry Committee will specifically limit its scope to evaluate the facts only to determine whether there is sufficient evidence of misconduct in research to warrant an investigation.
- C.** The RIO in consultation with the President of the Faculty Senate will appoint an Inquiry Committee consisting of three individuals who do not have conflicts of interest in the case, are unbiased, and have appropriate qualifications to evaluate the issues raised. If the President of the Faculty Senate is a Respondent or has a conflict of interest relative to an allegation of misconduct in research, the RIO will appoint the Inquiry Committee in consultation with the Secretary of the Faculty Senate. The RIO and the President of the Faculty Senate should seek input from the Dean of the College in which the Respondent holds academic rank, relative to appropriate individuals to nominate for consideration for appointment to the Inquiry Committee. The committee will elect its own Chair and the RIO will provide assistance as needed. The RIO will notify the Respondent of

the proposed committee membership. If the Respondent submits a written objection, within five working days, absent good cause, to any of the persons appointed to the Inquiry Committee, the President may replace the challenged person with a qualified substitute after the Complainant has received a notice and an opportunity to object to the requested replacement.

- D. The inquiry will normally involve interviewing the Complainant, the Respondent, and key witnesses, and examining relevant research records and materials.
- E. The Inquiry Committee normally will complete the inquiry and submit a report no more than 60 calendar days after initial appointment, absent good cause and subject to approval by the RIO. If the RIO approves an extension of this time limit, the reason for the extension will be entered into the records of the case and the report. The Complainant and Respondent will also be notified of the extension.
- F. The Inquiry Committee shall prepare a written report that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusion of the inquiry as to whether an investigation is warranted.
- G. The Respondent(s) and the Complainant(s) will each be given a copy of the report and will have 10 business days, absent good cause, to submit written comments to the RIO.
- H. Absent good cause, within 30 days of receiving both the report and the written comments of the Respondent and Complainant, the President, after consultation with the RIO, Provost, and others as necessary, shall determine whether to refer the matter to an investigation committee, dismiss the matter, or to take some other appropriate action.

X. Procedures Related to an Investigation and Investigation Committee

- A. The purpose of the investigation is to examine and evaluate all relevant facts to determine whether misconduct in research has been committed, and if so, the responsible person and the seriousness of the misconduct.
- B. The President, after reviewing the inquiry report and consulting with appropriate parties, if any, will define the subject matter in a written charge to the committee.

C. Appointment of an Investigation Committee

1. After the RIO notifies the Respondent that an investigation will be conducted, the RIO, after consulting with the Provost, will appoint an Investigation Committee.
2. This Committee shall consist of no fewer than three people and be drawn from a list of at least six individuals provided by the Faculty Senate President.

3. If the President of the Faculty Senate is a Respondent or has a conflict of interest relative to an allegation of misconduct in research, the RIO will appoint the investigation committee in consultation with the Secretary of the Faculty Senate.
4. The President of the Faculty Senate should seek input from the Dean of the College in which the Respondent holds academic rank, relative to appropriate individuals to nominate for consideration by the President of the Faculty Senate for appointment to the Investigation Committee.
5. These individuals must not have any real or apparent conflicts of interest with the Respondent or the case in question, and must have the necessary expertise to examine the evidence, interview the witnesses, and conduct the investigation.
6. If the Committee cannot be constituted from the individuals suggested, the RIO shall request additional names from the President of the Faculty Senate.
7. The Committee will elect its own Chair and the RIO will provide assistance as needed.
8. The RIO will notify the Complainant and Respondent of the proposed committee membership.
9. If the Respondent submits a written objection within five working days, absent good cause, to any of the persons appointed to the Investigation Committee, the RIO may decide to replace the challenged person with a qualified substitute after the Complainant has received a notice and an opportunity to object to the requested replacement.
10. Absent good cause, the Investigation Committee will be appointed and the process initiated within 30 calendar days of the completion of the inquiry, if findings from that inquiry provide sufficient basis for conducting an investigation.

D. Investigation Process

1. The investigation will normally include examination of all documentation including, but not necessarily limited to, relevant research data materials, proposals, publications, correspondence, memoranda, and notes of telephone calls.
2. Whenever possible, interviews will be conducted with all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations.
3. The Investigation Committee will record all interviews.

4. The complete summaries of these interviews will be prepared, provided to the interviewed party for comment or revision, and included as part of the file of the investigation.

E. Time Limit for Completing Investigation Report

1. An investigation should be completed within 120 calendar days of the initial appointment of the Investigation Committee, absent good cause.
 2. For the purpose of this policy, the term “completed” includes conducting the investigation, preparing the report of findings, making the report available for comment by the subjects of the investigation, submitting the report to the President, and submission to other agencies as may be required (e.g., the Office of Research Integrity of the Public Health Service).
 3. When the Investigation Committee reaches a final decision on the case, the RIO will notify both the Respondent and Complainant in writing within five working days.
- F.** The final report must state the policies and procedures under which the investigation was conducted, describe how and from whom information was obtained relevant to the investigation, state the findings, and explain the basis for the findings, include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, the possible sanctions that can be imposed against the Respondent, and include other information as may be required by a funding or sponsoring agency of a project under the purview of the Respondent.
- G.** The Respondent(s) and the Complainant(s) will each be given a copy of the report and will have 10 business days, absent good cause, to submit written comments to the RIO.
- H.** Absent good cause, within 30 days of receiving both the report and the written comments of the Respondent and Complainant, the President shall, after consultation with the RIO and Provost, decide whether misconduct has occurred, and what sanctions or administrative actions are to be undertaken in the manner described in Section XIV.

XI. Cooperation with Inquiries and Investigations

- A.** Tennessee Tech employees have an obligation to cooperate with the RIO and other officials in the review of allegations and the conduct of inquiries and investigations.
- B.** Employees have an obligation to provide relevant evidence to the RIO or other institutional officials on misconduct allegations.

XII. Notification and Reporting Requirements

A. Reporting to Appropriate Agencies

1. The RIO shall report the President's decision to initiate an investigation in writing to appropriate individuals at funding or sponsoring agencies (e.g., Director of the Office of Research Integrity of the Public Health Service) before the date an investigation begins.
2. The RIO shall ensure compliance with all notification requirements of funding or sponsoring agencies.
3. If Tennessee Tech terminates an investigation, the RIO shall notify the appropriate funding or sponsoring agency(ies) contact person(s) and provide an explanation of the reason.
4. If Tennessee Tech is unable to complete an investigation in 120 calendar days, the RIO will notify the appropriate agency(ies) and provide interim progress reports on the investigation.
5. If an agency has a time limit for completion of an investigation and Tennessee Tech will exceed this limit, the RIO will provide an explanation for the delay and request additional time.

B. The RIO shall notify the appropriate agency at any stage of the inquiry or investigation when:

1. There is an immediate health hazard;
2. There is an immediate need to protect sponsoring agency funds or equipment;
3. There is an immediate need to protect the interest of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates;
4. It is probable that the alleged incident is going to be reported publicly; or
5. There is reasonable indication of possible criminal violation.

C. The RIO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other concerned parties, shall be notified of the outcome of the case.

XIII. Other Considerations

A. Termination of Institutional Employment or Resignation Prior to Completing Inquiry or Investigation

1. If the Respondent, without admitting to the misconduct, is terminated or elects to resign his/her position prior to the initiation of an inquiry, but after an allegation of possible misconduct in research has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed.
2. If the Respondent refuses to participate in the process after resignation, the Committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the Respondent's failure to cooperate, and the effect on its review of all the evidence.

B. Restoration of Reputations

1. Diligent efforts will be undertaken to restore the reputation of the Respondent if misconduct in research is not substantiated after the inquiry and investigation have been completed.
 2. The RIO will ensure that all reference to the matter is expunged from the Respondent's personnel file.
 3. All persons who have been interviewed or otherwise informed of the charge will be notified in writing that the charges have been dismissed.
 4. Respondents will be consulted regarding other actions that might be taken on their behalf to restore their reputations.
- C. If relevant, the RIO will determine whether the Complainant's allegations of research misconduct were made in good faith. If an allegation was not made in good faith, the RIO will determine whether any administrative action should be taken against the Complainant.

XIV. Retention of Records

- A. The RIO shall maintain sufficient detailed documentation of inquiries that do not proceed to an investigation for at least five years after the termination of the inquiry to permit late assessment of the case.
- B. After completion of a case and all ensuing related actions, the RIO will prepare a complete file, including the original records of any inquiry or investigation, and copies of all documents and other materials furnished to the RIO or Committees.

- C. The RIO will retain the file for five years from the date Tennessee Tech closes the case, or if the inquiry or investigation is reported to a funding or sponsoring agency (e.g., Office of Research Integrity of the Public Health Service) from the date that the agency completes its review of the case and all related actions.
- D. Tennessee Tech will maintain the confidentiality of materials consistent with federal and state law requirements and consistent with authorized personnel's need to review the file.

XV. Sanctions and Administrative Actions

- A. Tennessee Tech shall impose appropriate sanctions on individuals when an allegation of misconduct has been sustained.
- B. If the RIO determines that the alleged misconduct is substantiated by the findings, he/she will notify other appropriate Tennessee Tech officials and staff of the actions that will be taken.
- C. The actions may include, but are not limited to:
 - 1. Restitution of funds to any sponsoring agency as appropriate;
 - 2. Withdrawal or correction of all pending or published abstracts and papers emanating from the research in question; or
 - 3. Removal from the particular project, letter of reprimand, special monitoring of future work, suspension, or discipline up to and including termination.

XVI. Interpretation

The Vice President for Research and Economic Development or his/her designee has the final authority to interpret the terms of this policy.

XVII. Citation of Authority for Policy

T.C.A. § 49-8-203 (a)(1)(E); 45 CFR 46; 45 CFR 94.3; 21 CFR 50, 56, 58, & 689; 7 U.S.C §§ 2131-2156; 42 CFR 50 & 93

Approved by:

Administrative Council: 11/15/17
 Academic Council: 11/15/17
 University Assembly: 11/29/17