

# UNIVERSITY RULE

## 15.99.03.M1 **Responsible Conduct in Research and Scholarship**

*Approved June 20, 1997*

*Revised February 2, 1998*

*Revised June 14, 1999*

*Supplements [System Regulation 15.99.03](#)*

### 1. PREFACE

This rule and the standard administrative procedures that follow ([15.99.03.M1.01](#) through [15.99.03.M1.06](#)) apply to all individuals at Texas A&M (including but not limited to faculty members, scientists, junior researchers, technicians and other staff members, students, fellows, visiting scholars, or collaborators) and address expressions of concern and/or allegations of misconduct in research and scholarship at Texas A&M University. They have been constructed for consistency with applicable state statutes, federal statutes, and policies of major governmental research agencies and apply to scholarly activity and both non-funded and funded research, regardless of the funding source. Guidelines for gathering, storage and retention of data and for authorship and publication practices are available from the Office of the Vice President for Research.

#### 1.1 Adherence to Rule

This rule and associated administrative procedures will be followed when an expression(s) of concern and/or an allegation(s) of possible misconduct in research or scholarship is received by an institutional official.

### 2. DEFINITIONS

The following definitions are arranged in alphabetical order.

2.1. ***Allegation*** means a written statement of possible misconduct in research or scholarship made to an institutional official.

2.2. ***Anonymous complainant*** means a complainant who has not revealed his/her identity. An anonymous complainant must provide substantial evidence to indicate the need to invoke the process described in this [University Rule 15.99.03.M1](#).

2.3. ***Complainant*** (Refer to definition section 2.6 of [System Regulation 15.99.03](#).)

2.4. ***Conflict of interest*** means 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.

2.5. ***Deciding official*** means the institutional officer who makes final determinations on allegations of misconduct in research or scholarship and any responsive institutional actions. The deciding official is the Chief Academic Officer (CAO)

of Texas A&M University. The deciding official shall not be involved in the allegation assessment, inquiry, or investigation.

- 2.6 **Designated officer** (Refer to definition section 2.3 of [System Regulation 15.99.03](#).) The designated officer shall be the Vice President for Research or his/her designee.
- 2.6.1 **Designee**. When the Designated Officer appoints a designee, that person must be of equal or higher academic rank of the Respondent.
- 2.7 **Early Termination**. The process described in [Rule 15.99.03.M1](#) may be terminated at the Preliminary Assessment stage or the Inquiry stage by the Designated Officer upon receipt of incontrovertible evidence clearing the respondent or that the complaint was not made in good faith. The Designated Officer shall discuss the information with the Inquiry Committee.
- 2.8 **Ethical standards**. Expectations for the conduct of research and scholarship that emphasize honesty, accuracy, and completeness in designing, carrying out, and reporting academic research.
- 2.9 **Expression of concern** means a written or spoken statement of concern about possible misconduct in research or scholarship.
- 2.10 **Fabrication** is making up data.
- 2.11 **Falsification** is changing or misreporting data or results.
- 2.12 **Inquiry** (Refer to definition section 2.4 of [System Regulation 15.99.03](#).)
- 2.13 **Investigation** (Refer to definition section 2.5 of [System Regulation 15.99.03](#).)
- 2.14 **Misconduct in research or scholarship** (Refer to definition section 2.2 of [System Regulation 15.99.03](#).) The use of the term “misconduct” in this rule (15.99.03.M1) and its associated administrative procedures ([15.99.03.M1.01](#) through [15.99.03.M1.06](#)) means misconduct in research and scholarship. Other forms of misconduct, including sexual or other forms of harassment, misuse of funds, gross negligence in a person’s professional activities, tampering with the experiments of others or with instrumentation, and violations of government research regulations, are subject to federal and state laws and regulations, as well as to the policies of The Texas A&M University System, which would be applied to anyone, and should not be considered as misconduct in research or scholarship.
- 2.15 **Plagiarism** is the intentional use of ideas, words or data of another person without giving appropriate credit.
- 2.16 **Principal investigator** means the researcher who is primarily responsible for a project.

- 2.17 **Research record** means 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 that constitutes the subject of an allegation of misconduct in research or scholarship. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols and other similar compliance documents; consent forms; medical charts; and patient research files.
- 2.18 **Research standards officer** is a tenured member of the Graduate Faculty who shall assist the designated officer by assuring the correct observance of the procedures set forth in this document during the deliberations related to an inquiry or an investigation. A research standards officer shall be well qualified to deal with procedural requirements and shall be sensitive to the varied demands to which those who conduct research must respond. Research standards officers serve in an advisory rather than a decision-making capacity and shall serve as the non-voting chairperson for all inquiry and investigation committees.

A minimum of six research standards officers shall be selected by the designated officer from a list provided by the Faculty Senate after an opportunity for the deans to review and comment on the list. The list shall consist of a number of names two to three times greater than the number of positions to be filled. By accepting appointment, research standards officers agree to acquire and maintain a thorough understanding of the definition of misconduct in research and scholarship, and procedures for dealing with such misconduct.

They shall serve a term of six years, with no limitation on the number of terms. However, the research standards officers may be removed for cause by the designated officer. Terms shall be staggered so that one research standards officer is subject to replacement each year.

- 2.19 **Respondent** (Refer to definition section 2.7 of [System Regulation 15.99.03.](#))
- 2.20 **Retaliation** means any action that adversely affects the employment or other institutional status of an individual, which is taken by an institution or an employee because the individual has in good faith made an allegation of misconduct in research or scholarship or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.

### 3. RIGHTS AND RESPONSIBILITIES

#### 3.1 Complainant

The complainant may have an opportunity to testify before the inquiry committee and, if an investigation is warranted, the investigation committee; to review

transcripts of his/her testimony; to be informed of the results of the inquiry and investigation; and to be protected from retaliation. In addition, in accordance with institutional policy and the Texas Public Information Act, the complainant may review the records pertaining to the case. The complainant is responsible for expressing concerns or making allegations in good faith, maintaining confidentiality, and cooperating with the conduct of an inquiry or investigation.

### 3.2 Respondent

The respondent will be informed of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting action. The respondent will have the opportunity to know the evidence presented against him/her and the opportunity to present additional evidence, and in accordance with institutional policy and the Texas Public Information Act, the respondent may review the records pertaining to the case. The respondent will also have the opportunity to be interviewed by and present evidence to the inquiry and investigation committees; to review the draft inquiry and investigation reports; and to have the advice of counsel. The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the respondent is not found to have engaged in misconduct in research or scholarship, he/she has the right to receive institutional assistance in restoring his/her reputation.

### 3.3 Designated Officer

The designated officer will have primary responsibility for implementation of the procedures set forth in this rule. Specific duties of the designated officer are listed in [Standard Administrative Procedure 15.99.03.M1.01: Duties of the Designated Officer](#).

## 4. GENERAL RULE

### 4.1 Responsibility to Report Misconduct

A Texas A&M employee who becomes aware of possible misconduct in research or scholarship shall immediately report the concerns and/or allegations to his/her supervisor, department head, or dean, who will consult immediately with the designated officer regarding the nature of the concerns and/or allegations.

### 4.2 Protecting the Complainant

A Texas A&M employee who receives or learns of an expression(s) of concern about and/or an allegation(s) of misconduct in research or scholarship will treat the complainant with fairness and respect and, when the concern(s) and/or allegation(s) has been expressed in good faith, will take reasonable steps to protect against retaliation directed toward the position and reputation of the complainant and other individuals who cooperate with the institution. An employee shall immediately report any alleged or apparent retaliation to the designated officer.

#### 4.3 Anonymity of Complainant

The Texas Public Information Act may prevent the designated officer from providing anonymity to a known complainant.

#### 4.4 Protecting the Respondent

A Texas A&M employee who receives or learns of an expression(s) of concern and/or an allegation(s) of misconduct in research or scholarship will treat the respondent with fairness and respect and will take reasonable steps to ensure that procedural safeguards listed in [System Regulation 15.99.03](#), this rule, and the accompanying Standard Administrative Procedures are followed. An employee will report significant deviations from these instructions to the designated officer. The designated officer will report any allegation not made in good faith to the deciding official for appropriate action.

#### 4.5 Confidentiality

A Texas A&M employee who makes, receives, or learns of an expression(s) of concern and/or allegation(s) of misconduct in research or scholarship will not discuss the case or information about affected individuals, including the complainant and the respondent, outside of official proceedings. The designated officer may establish reasonable conditions to ensure the confidentiality of such information within the restrictions of the Texas Public Information Act. However, this Act allows members of the public full access to records upon their request.

#### 4.6 Cooperation with Inquiries and Investigations

Texas A&M employees will cooperate with the designated officer and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the designated officer or other institutional officials on misconduct allegations.

#### 4.7 Emergency Notifications

In cases involving federal funds, the designated officer shall notify the funding agency at any stage of the inquiry or investigation as described in sections 4.1 and 4.2 of [System Regulation 15.99.03](#).

#### 4.8 Evidentiary Standards

The burden of proof for making a finding of misconduct in research or scholarship is on Texas A&M University. The standard of proof is defined in section 6.7 of [System Regulation 15.99.03](#).

#### 4.9 Completion of the Process

The designated officer is responsible for ensuring that the inquiry/investigation process set forth by this rule and all other steps required by federal funding agencies are completed, even in those cases where the respondent leaves the University after allegations are made.

#### 4.10 Early Termination of the Process

The designated officer may at any time terminate the process at the Preliminary Assessment or Inquiry phases if the complaints are shown to be unfounded or not made in good faith.

If the University plans to terminate an inquiry or investigation that concerns a federal funding agency before completion of all the steps required by the funding agency, the designated officer will notify the agency of the planned termination and the reasons for termination.

#### 4.11 Appeal of Early Termination

The complainant may appeal the early termination of a Preliminary Assessment or Inquiry to the CAO of Texas A&M University. The appeal will be on the record only (i.e., the complainant is not entitled to a hearing before the CAO.)

#### 4.12 Referral of Misconduct Relating to Areas Other than Research or Scholarship

When the University's review of an allegation identifies misconduct that does not relate to research or scholarship, the designated officer shall refer these matters to the proper University, local, state, or federal office for action.

### 5. CONDUCT OF PRELIMINARY ASSESSMENT OF EXPRESSION(S) OF CONCERN AND/OR ALLEGATION(S)

Upon receiving an expression of concern about and/or an allegation of misconduct in research or scholarship, the designated officer will have 15 working days to assess the severity and extent of the concerns and/or allegations. The designated officer may request a research standards officer and any other appropriate resource persons to assist in the preliminary assessment. Every effort shall be made to minimize the number of participants at this stage of the process.

#### 5.1 The designated officer must assess the complaint:

5.1.1 to determine if the issues are appropriate for consideration through the process described in this rule and its associated administrative procedures or through review mechanisms, such as those provided by the Office of Internal Audit, the Institutional Review Board, or the animal care and use committees;

5.1.2 to determine if there is sufficient evidence to warrant an inquiry; and

5.1.3 to determine if there is federal funding involved. If federal funding is involved, the designated officer will assess whether the complaint falls under the agency's definition of misconduct. This time limit may be extended for good cause by the designated officer with approval of the CAO of Texas A&M University; the extension must be documented in the record.

## 5.2 Possible Findings of the Preliminary Assessment

Four options exist for the disposition of an expression(s) of concern and/or allegation(s) of misconduct in research or scholarship.

5.2.1 If no compelling evidence of misconduct exists, there is no need for an inquiry.

5.2.2 If the concern(s) and/or allegation(s) is not found to be misconduct in research or scholarship but may be another form of misconduct, such as a case of improper personnel action, fiscal impropriety, or patent infringement the designated officer will direct the concerns and/or allegations to an appropriate administrator or departmental office for resolution.

5.2.3 If the expression of concern(s) and/or allegation(s) is the result of a misunderstanding or broken collaboration, mediation at the level of the research unit, department, or college may be an appropriate response. If mediation is appropriate, a qualified third party mediator will be made available through the designated officer. A report of the finding of the mediation will be provided by the mediator to the designated officer, dean, department head, and supervisor.

5.2.4 If a concern(s) and/or allegation(s) fall within the definition of misconduct in research or scholarship, the designated officer will follow the procedures outlined in [University Rule 15.99.03.M1](#), and proceed to an inquiry.

## 5.3 Insufficient Evidence or Information

There is not always sufficient evidence or information to permit further inquiry into an allegation. For example, an allegation that a researcher's work should be subjected to general examination for possible misconduct is not sufficiently substantial or specific to initiate an inquiry. In case of such a vague complaint, an effort shall be made to obtain more information before initiating an inquiry. This information may be sought from any reasonable source, including the complainant, if known.

## 6. CONDUCT OF AN INQUIRY

General procedures are described in section 5.1 of [System Regulation 15.99.03](#). Detailed procedures are in the [Standard Administrative Procedure 15.99.03.M1.02: Conducting an Inquiry](#).

#### 6.1 Decision to Investigate

If the inquiry concludes that an investigation will be conducted, the designated officer will notify the CEO, and the appropriate federal funding agency and forward a copy of the final inquiry report, a copy of [University Rule 15.99.03.M1](#), and a copy of the associated [Standard Administrative Procedures, 15.99.03.M1.01 through 15.99.03.M1.04](#), to the funding agency.

#### 6.2 Decision Not to Investigate

If an investigation is not warranted, the case can be closed and the designated officer will forward a copy of the inquiry report to the CAO of Texas A&M University. If the inquiry was begun at the request of a federal funding agency, or if a federal funding agency requests a copy of the final inquiry report, the designated officer will send a copy of the final inquiry report and the institutional decision to the federal funding agency. In all cases in which an investigation is not warranted, the designated officer will forward a copy of the inquiry report to the CAO of Texas A&M University.

#### 6.3 Restoration of the Respondent's Reputation and Research Capabilities

If the inquiry committee determines that the allegations have no merit, the designated officer will consult with the respondent and develop a reasonable plan to restore the respondent's reputation and research capabilities. Depending on the particular circumstances, the designated officer may notify those individuals aware of or involved in the inquiry of the final outcome and publicize the final outcome in forums in which the allegation of misconduct was previously publicized. Any efforts to restore the respondent's reputation must be approved by the CAO of Texas A&M University.

#### 6.4 Access to Evidence

If a federal funding agency is performing an oversight review of the institution's determination not to proceed to an investigation, the designated officer, if so requested, will provide the federal funding agency with the report and the inquiry file, including, but not limited to, sequestered evidence and analyses. The designated officer will keep all records secure until the federal funding agency makes its final decision on its oversight of the institutional inquiry or investigation.

### 7. NOTIFICATION OF FEDERAL FUNDING AGENCIES

If an investigation will be conducted, the designated officer will notify the appropriate federal funding agency and forward a copy of the final inquiry report, a copy of

University Rule 15.99.03.M1, and a copy of the associated Standard Administrative Procedures, [15.99.03.M1.01](#) through [15.99.03.M1.06](#), to the agency.

## 8. CONDUCT OF AN INVESTIGATION

General procedures are described in sections 5.2 and 6 of [System Regulation 15.99.03](#). Detailed procedures are contained in the [Standard Administrative Procedure 15.99.03.M1.03 Conducting an Investigation](#).

## 9. ADMINISTRATIVE ACTIONS

If the deciding official (the CAO of Texas A&M University) determines that the alleged misconduct is substantiated by the findings, he/she will decide on the appropriate sanctions in consultation with the designated officer. The actions may include:

- 9.1 withdrawal or correction of all pending or published abstracts and papers emanating from the research where misconduct was found;
- 9.2 removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, or initiation of steps leading to possible rank reduction or termination of employment; and/or
- 9.3 restitution of funds as appropriate.

## 10. OTHER CONSIDERATIONS

### 10.1 Termination of Employment Prior to Completing the Inquiry or Investigation

The termination of the respondent's employment, by resignation or otherwise, before or after an allegation of possible misconduct has been reported, will not preclude or terminate the misconduct procedures. 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 that the failure to cooperate had on the committee's review of all the evidence.

### 10.2 Restoration of the Respondent's Reputation and Research Capabilities

Following an investigation, if the deciding official (the CAO of Texas A&M University) finds no misconduct, the designated officer will consult with the respondent and develop a reasonable plan to restore the respondent's reputation and research capabilities. Depending on the particular circumstances, the designated officer may notify those individuals aware of or involved in the investigation of the final outcome and publicize the final outcome in forums in which the allegation of misconduct was previously publicized. Any efforts to restore the respondent's reputation must be approved by the CAO of Texas A&M University.

### 10.3 Protection of the Complainant and Others

The designated officer will take reasonable efforts to protect complainants who expressed concern(s) and/or made allegation(s) of misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the CAO will consult with the complainant and determine what steps, if any, are needed to restore the position or reputation of the complainant. The designated officer is responsible for implementing any steps the CAO approves. The designated officer will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the complainant.

### 10.4 Allegations Not Made in Good Faith

If relevant, the deciding official (the CAO of Texas A&M University) will determine whether the complainant's expression(s) of concern and/or allegation(s) of scientific misconduct were made in good faith. If the complaint was not made in good faith, the deciding official (the CAO of Texas A&M University) will take appropriate action against the complainant.

### 10.5 Interim Administrative Actions

University officials will take interim administrative actions, as appropriate, to protect federal funds and ensure that the purposes of the federal financial assistance are carried out.

## 11. RECORD

### 11.1 Maintenance of the File

The complete file of the proceedings will be maintained in the office of the designated office.

### 11.2 Records Retention

After completion of a case and all ensuing actions, the designated officer will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the designated officer or committees. The designated officer will retain the file for the time periods set forth in the Records Retention Schedule for the Texas A&M University System. Any federal funding agencies involved with projects under investigation will be given access to the records upon request.

#### 11.2.1 Location of the File of an Exonerated Respondent

All documents and records from the proceedings of an exonerated respondent shall be confined to the official file in the office of the

designated officer where they will be retained for the period prescribed by law.

OFFICE OF RESPONSIBILITY: [Office of the Vice President for Research](#)

Approved by Faculty Senate: (March 29, 1999)

Approved by Academic Program Council: (March 31, 1999)