

Principles and Procedures for Dealing with Allegations of Faculty Misconduct

PRINCIPLES

The integrity of the teaching, research and clinical programs of the Faculty of Medicine requires that the Faculty pay careful attention to and resolve in an equitable manner allegations of misconduct of faculty appointees and fellows.

Because of variations in such factors as the kind of misconduct alleged, the seriousness of the allegations, the nature of the dispute over the facts, and the interests and involvement of other private or public institutions and agencies, the course of action that will enable the Faculty to fulfill this responsibility in the best possible manner is likely to vary from case to case. Accordingly, the procedures set forth below permit flexibility and are designed to provide a framework that should enable equitable resolution of allegations of misconduct in a wide variety of circumstances. When applying these procedures to a specific case, persons acting on behalf of the Faculty and others involved in the proceedings should keep in mind the following concerns:

- The importance of the Faculty's maintaining standards consistent with the highest traditions of teaching, patient care, and research in medicine and with the lawful obligations of the Faculty.
- The responsibility of the Faculty to the public and the scientific community and to the private and public institutions and agencies with which the Faculty is affiliated or has contractual or other arrangements.
- The necessity of the Faculty's protecting the rights and reputations of all individuals, including the person who is alleged to have engaged in misconduct and the person who has made the allegation.
- The necessity of the Faculty's resolving allegations with care and objectivity, with ample opportunity for all interested parties to be heard, and as promptly as the circumstances permit.

PROCEDURES

1. The Office of the Dean shall have principal responsibility for assessing a proper response to allegations⁽¹⁾ of misconduct concerning faculty appointees and fellows. To enable the Office of the Dean to meet this responsibility, all allegations of misconduct, whether initially received by a Department Head or other person, shall be promptly brought to the attention of the Office of the Dean (and where appropriate, the Chief Executive Officer of an affiliated institution) unless they are clearly frivolous or otherwise lacking in substance.
2. Upon receipt of an allegation of misconduct, the Office of the Dean and, in those instances where the faculty member has a dual appointment, the Chief Executive Officer of the other institution shall determine, after such consultation as may seem appropriate, whether primary

responsibility for resolving the allegation rests with the Faculty or with another institution. For example, primary responsibility for resolving an allegation of misconduct in connection with care of a patient would ordinarily reside in a hospital. In the case of an allegation pertaining to externally funded research, primary responsibility ordinarily rests with the institution that has administered the research grant or contract. An affiliated institution that has received support for research by a Harvard appointee may request, however, that allegations related to research by such appointees be dealt with by the Medical School. In any case, where the interests of two or more institutions are significantly implicated, it is expected that such inquiry and any investigation will proceed with the simultaneous participation of all concerned institutions, with agreement regarding which institution bears primary responsibility.

3. If primary responsibility rests with the Faculty, the Office of the Dean shall determine whether, taking into account the nature of the allegation, it is appropriate to attempt to resolve the matter through informal processes and discussions. The affected Department Head shall ordinarily have the responsibility for such efforts. Final resolution through informal means shall require the approval of the Office of the Dean. When primary responsibility rests with an affiliated institution, notice of resolution should be transmitted to the Office of the Dean.

4. If the matter is not resolved under paragraph 3, and if in the view of the Office of the Dean further proceedings are required, the Office of the Dean shall, in the absence of any specific Faculty procedure designed to cover the subject matter of the Committee on Faculty Conduct (2) with the request that the Committee make such factual inquiry, investigation, findings and recommendations to the Office of the Dean as seem appropriate to the circumstances. If there is a dispute over facts or for other good cause, the Office of the Dean, after consultation with the Chairperson of the Committee and other appropriate people, may first create one or more panels of inquiry of one or more individuals, who need not be members of the Committee, to inquire into the facts and submit the result of its inquiry to the Committee. In deciding upon the size and composition of the Panel, the Office of the Dean, to help insure competence and objectivity, shall take into account such factors as:
 - a. the subject matter of the inquiry, including the desirability of the panel's possessing competence in a specialized area or investigative skills,
 - b. the desirability of including on the panel persons associated with another affiliated hospital or individuals who are not members of the Faculty or not associated with Harvard University, and
 - c. the importance of selecting people who have had no prior involvement in the subject matter of the inquiry.

The Committee, with the benefit of a report from the panel of inquiry, if one is created, and after such further investigation, deliberations and proceedings as it deems appropriate or necessary, taking into account any applicable governmental regulations, shall submit its report to the Office of the Dean. The Committee will submit conclusions and, ordinarily, comments on gravity of offense, possible sanctions, and prevention of future misconduct.

5. The Office of the Dean, after receiving comments on the report from such other people as may seem appropriate, shall decide the matter and take such action or make such recommendations as may be required. In cases involving another institution, the Dean will confer with the Chief Executive Officer of such institution in reaching a final resolution and applying appropriate sanctions. Sanctions may range, for example, from a letter of censure, to probation and monitoring, to termination of appointment.

6. The Office of the Dean, in carrying out its responsibilities under these procedures, shall bear in mind the concerns of the Faculty as set forth in the preamble and in particular:
 - a. the importance of care, fairness and objectivity, and of the appearance of these attributes,
 - b. the necessity of informing at the appropriate time other Faculty and University officers, including the Chairperson of the Committee on Faculty Conduct, the Head of the Department(s) involved, and the General Counsel to the University, of the existence of allegations, and of consulting with these and other Faculty and University officers as resolution of allegations progresses,
 - c. the responsibility of informing and consulting with officers of affiliated institutions and of other private and public institutions and agencies to the extent necessary to meet in good faith the obligations of the Faculty to others, and of coordinating the Faculty's proceedings with those of affected institutions and agencies,
 - d. the importance of protecting the reputations of individuals and to that end ordinarily maintaining confidentiality to the extent practicable and to the extent consistent with other obligations of the Faculty during the course of and at the conclusion of proceedings,
 - e. the need to protect the rights of the person alleged to have engaged in misconduct, including the right to be informed with specificity at the appropriate time of the allegations and the evidence in support of the allegations, and the need to discuss with that person the procedures to be followed,
 - f. the need to protect the rights of individuals who, in good faith, make allegations,
 - g. the importance of using the staff resources of the Faculty and the University to aid in any inquiry and of broadening the scope of any inquiry, when indicated, to make certain that the full obligations of the Faculty are met, and
 - h. the need to make certain that the President of the University is informed when allegations may constitute grave misconduct under the Third Statute of the University and that resolution of the matter proceeds with this fact in mind.

7. The Office of the Dean and the Committee on Faculty Conduct shall maintain records of any proceedings in which they are involved.

Adopted by the Faculty Council (Harvard University Faculty of Medicine) on December 14, 1989.

1 Footnotes:

1An allegation will ordinarily be made by a written statement describing the misconduct in sufficient detail to form the basis of an inquiry.

2The Committee on Faculty Conduct, appointed by the Dean, shall consist of nine faculty members with overlapping three-year terms.

2 Addendum

When an allegation of misconduct by a Faculty appointee or fellow pertains to biomedical or behavioral research, research training, or other activities related to that research or research training for which Public Health Service (PHS) funds have been provided or requested, the following additional principles and procedures shall be observed in accordance with applicable governmental requirements:

1. Where the Office of the Dean determines that there is an allegation or other evidence of possible misconduct that would be subject to the Final Rule of the PHS entitled "Public Health Service policies on Research Misconduct," or any successor document ("PHS Rule"), ⁽¹⁾the Office of the Dean, after consultation with the Chair of the Committee and other appropriate people, shall create one or more panels of inquiry as described in the "Principles and Procedures for Dealing with Allegations of Faculty Misconduct." The panel(s) shall conduct an inquiry in accordance with the requirements of the PHS Rule. At the conclusion of the inquiry, the panel(s) shall present a written report of the findings to the Committee on Faculty Conduct, along with any written comments on the report that may be provided by the respondent. Such inquiry shall be concluded within sixty days unless circumstances warrant a longer period (in which case the panel's report shall document the reasons for exceeding the sixty day period).
2. Within thirty days after receiving the report of the panel of inquiry, the Committee shall determine whether the findings of that inquiry provide sufficient basis for conducting an investigation. If deemed to be necessary, such investigation shall be commenced within thirty days after such determination is made and shall be conducted in accordance with the requirements of the PHS Rule and with such additional assistance from the members of the panel of inquiry as the Committee shall deem necessary and appropriate.
3. In the event the Committee concludes that an investigation is warranted, the Office of the Dean shall, within thirty days after reaching that conclusion, report this decision in writing to the Director, Office of Research Integrity of the Department of Health and Human Services (ORI), in the manner required by the PHS Rule, and shall take any other actions required by the PHS Rule.
4. The Committee shall submit a report of its investigation, including any recommended sanctions, to the Office of the Dean upon its completion. Unless an extension of time has been granted by ORI in accordance with the requirements of the PHS Rule, such report shall be submitted to the Office of the Dean within one hundred and twenty days of the initiation of such investigation.

5. After receiving the final report and such comments from other persons as may seem appropriate, the Office of the Dean shall decide the matter and take such action or make such recommendations as may be deemed fitting, including submission of the final report to the ORI and any other actions required by the PHS Rule. In cases involving another institution, the Dean will confer with the Chief Executive Officer of such institution in reaching a final resolution.

6. This Addendum is intended to include, and hereby incorporates by reference, all of the specific mandatory requirements of the PHS Rule pertaining to the conduct and reporting of research misconduct proceedings that are subject to that rule.

3 Footnote on Addendum:

1"Research Misconduct" means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

(a) Fabrication is making up data or results and recording or reporting them.

(b) 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.

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

(d) Research misconduct does not include honest error or differences in opinion.

Adopted by the Faculty Council (Harvard University Faculty of Medicine) on December 14, 1989.

Revisions adopted by the Faculty Council (Harvard University Faculty of Medicine) on June 1, 2005.