

POLICY ON DEALING WITH ALLEGATIONS OF SCIENTIFIC MISCONDUCT

POLICY STATEMENT

Scientific misconduct is rare, but when it does occur it erodes the integrity of the scientific process and the confidence of the public. The Cary Institute of Ecosystem Studies is committed to the highest ethical standards in the conduct of research. The Cary Institute believes that the scientific community must do everything within its power to guard against scientific misconduct and, as part of that responsibility, should have in place clear and detailed procedures for dealing with allegations of scientific misconduct swiftly and fairly. Such procedures are needed to simultaneously protect the scientific community from misconduct and protect individuals who may be accused unjustly.

PRINCIPLES

The Cary Institute has an obligation to see that the scientists doing research at the Cary Institute maintain high ethical standards and will, therefore, thoroughly investigate and resolve promptly and fairly all instances of alleged scientific misconduct.

Every member of the scientific staff and all others involved in research bear the responsibility for adhering to the ethical standards and maintaining the intellectual honesty of Cary Institute research. Each member of the scientific staff, as mentor and director of research in his or her research group,⁽¹⁾ accepts responsibility for setting the ethical tone and for using reasonable care and diligence to assure the integrity of the research conducted in his or her laboratory. The scientist is responsible for the supervision of research personnel and trainees in his or her research group. Each scientist will use reasonable care and diligence in auditing all primary data and in reviewing these data prepared for any form of publication. All research results should be recorded in laboratory or field notebooks or any other commonly accepted form. All such research data are to be available for at least three (3) years beyond the date of publication of such research.⁽²⁾

The rights and reputations of all parties involved in an instance of alleged scientific misconduct shall be respected and protected, including the individuals who report possible misconduct in good faith. This policy provides for confidential treatment, prompt and thorough inquiry and/or investigation, and the opportunity to respond to all allegations and/or findings by all involved parties.

Accusations of falsifying or misrepresenting data and plagiarism are among the most serious charges that can be lodged against an investigator. Any person contemplating such accusations should consider fully the gravity of the accusation and its consequences and should make every reasonable effort to avoid lodging charges that fall outside the definition of scientific misconduct.

All proceedings shall comply with applicable policies and contractual obligations of the Cary Institute.

- ⁽¹⁾ Research group here also refers to field sites where research is done.
- ⁽²⁾ Publications often have co-authors from other institutions. Retention of data generated by a scientist whose primary affiliation is with another institution will be the responsibility of that scientist and institution.

DEFINITION OF SCIENTIFIC MISCONDUCT

Misconduct in research is defined as **fabrication, falsification, plagiarism or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting or reporting research, or retaliation of any kind against a person who has reported or provided information about suspected or alleged misconduct and who has not acted in bad faith.** It does not include honest error or honest differences in judgments or interpretations of data.

PROCEDURES

The procedures described herein represent the general approach to be employed by the Cary Institute in instances of possible scientific misconduct, since no policy can anticipate every possible issue that may arise in the course of an investigation. The Compliance Officer/President of the Cary Institute of Ecosystem Studies is responsible for implementing these procedures and modifying them as necessary to ensure adherence to the policy and principles outlined above.

1. Prevention

The Cary Institute will encourage intellectual honesty in research done at the Cary Institute by encouraging open communication, submitting work for peer review, and committing to self-regulation.

By distribution of this policy, the Cary Institute intends to inform all employees regarding its ethical standards, its philosophy and policy of dealing with and reporting possible scientific misconduct and the importance of complying with the policies and procedures.

Each scientist will use his or her best efforts to assure compliance with this policy by individuals working under his or her supervision.

2. Allegations

Charges of scientific misconduct will normally be brought to the supervisor of the individual accused of such conduct. That supervisor shall immediately inform the Compliance Officer/President. If the subject of the allegations is a member of the scientific staff, the charges should be brought directly to the Compliance Officer/President. If the Compliance Officer/President determines that there is any

possibility that the charges have merit, an initial inquiry shall be instituted immediately. If the President is the subject of allegations, the Chairman of the Cary Institute's Board of Trustees, or a Trustee designated by the Chairman, shall perform the role as President in any inquiry or investigation.

The Compliance Officer/President shall determine whether an inquiry can proceed effectively without the direct involvement of the complainant. Instances of possible scientific misconduct that depend upon the observations or statements of the complainant cannot proceed without the open involvement of that individual; other instances that can rely on documentary evidence may permit the complainant to remain anonymous.

When an inquiry is initiated, the party(ies) charged with misconduct may be reminded of the obligation to cooperate in providing the material necessary to conduct the inquiry. Uncooperative behavior will be considered unacceptable and may result in immediate implementation of a formal investigation and appropriate administrative actions.

The process of dealing with allegations of possible misconduct raises difficult and sensitive issues for those making the allegations, those suspected of misconduct and those responsible for investigation. All proceedings shall be conducted with care and sensitivity. The privacy of the accused as well as those who in good faith report possible misconduct will be protected to the maximum extent possible. Appropriate administrative action will be taken when retaliation against any party involved in an inquiry or investigation of possible scientific misconduct occurs.

3. Whistleblower

The Compliance Officer will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response to an allegation(s) and to those individuals who cooperate in inquiries or investigations. The Compliance Officer will ensure that there will be no retaliation against these persons, especially in the terms and conditions of their employment or in any other status that they may have in the institution. The Compliance Officer will review all instances of alleged retaliation for appropriate action.

Employees should immediately report any alleged or apparent retaliation to the Compliance Officer.

The institution will protect the privacy of those who report misconduct in good faith.

4. Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or the ability to carry

out a thorough inquiry or investigation.

Institutional employees accused of scientific misconduct may consult with legal counsel or a non-lawyer personal advisor (who is not a principal or witness in the case). The attendance of counsel or personal advisors at interviews or meetings on the case must have the prior approval of the Compliance Officer and the President.

5. Initial Inquiry

Inquiry is defined as information gathering and initial fact-finding to determine whether an allegation of apparent misconduct warrants an investigation.

- a. The Compliance Officer/President shall appoint an Inquiry Committee of no more than three (3) individuals with sufficient expertise and dedication to conduct a thorough, authoritative and impartial inquiry into the allegations. In making appointments to the Inquiry Committee, the Compliance Officer/President shall take precautions against real or apparent conflicts of interest on the part of those involved in the inquiry. To protect the privacy and afford confidentiality to all affected individuals, including those who report possible misconduct in good faith, members of the Inquiry Committee shall sign a statement prior to the commencement of the inquiry assuring that any information related to a case of possible misconduct shall not be disclosed, except to the Compliance Officer/President and representatives of the Cary Institute authorized by the Compliance Officer/President in writing. In addition, all proceedings of the Inquiry Committee shall be handled discreetly and in a manner designed to preserve confidentiality.
- b. Separate and private sessions may be conducted to hear the complainant, the subject of the allegations and others as determined necessary by the Inquiry Committee. An accused, when being interviewed by the Inquiry Committee, may be accompanied by an advisor, but not by legal counsel. All evidence that is produced which bears directly upon the charges will be reviewed and secured by the Committee.
- c. The Inquiry Committee shall make a written inquiry report and recommendation to the Compliance Officer/President within sixty (60) days after the appointment of the Inquiry Committee, unless the Compliance Officer/President approves an extension for good cause. The inquiry report should state what evidence was reviewed, summarize relevant interviews, and include the conclusions of the inquiry. A copy of the inquiry report shall be given to the subject of the investigation and the Compliance Officer/President will set a reasonable time to be allowed for any comments, which may be made part of the record in the form of an appendix to the report.
- d. Three basic recommendations may follow from this initial inquiry: (1) the allegations are without merit; or (2) no culpable conduct was committed but

serious scientific errors were discovered, necessitating appropriate corrective action; or (3) the allegations have sufficient substance to warrant further investigation.

- e. The Compliance Officer/President shall review the recommendation and supporting rationale of the Inquiry Committee and decide whether to request a complete investigation as described in Section 4 below or take any other appropriate action pursuant to Institute policies or contractual agreements.
- f. If the Inquiry Committee concludes that the allegations are without merit, the Compliance Officer/President shall undertake immediate efforts to assist in restoring the reputations of those accused as well as those who made allegations in good faith.

6. Investigation

Investigation is defined as the formal examination and evaluation of all relevant facts to determine if misconduct has occurred. If misconduct has already been confirmed, an investigation may nevertheless be conducted to determine the extent of any adverse effects resulting from the misconduct.

- a. If the Compliance Officer/President decides that an investigation is warranted, the subject(s) of the investigation shall be informed promptly regarding the general nature of the allegations of scientific misconduct.
- b. The Compliance Officer/President shall determine whether sponsored research is involved. If the research is conducted with federal funds, the Compliance Officer/President will inform the appropriate agency that an investigation is warranted on the basis of initial inquiry to determine the propriety of the conduct or reporting of the research and that the agency shall be apprised of the results.
- c. The Compliance Officer/President shall appoint an Investigating Committee within fifteen (15) days of the completion of the inquiry to conduct a complete investigation of the allegations and the Investigating Committee shall commence the investigation within thirty (30) days of the completion of the inquiry. The Investigating Committee should not be excessive in size but should contain individuals with sufficient expertise and dedication to conduct a thorough, authoritative and impartial investigation. In making appointments to the Investigating Committee, the Compliance Officer/President shall take precautions against real or apparent conflicts of interest on the part of those involved in the investigation. To protect the privacy of and afford confidentiality to all affected individuals, including those who report possible misconduct in good faith, members of the Investigating Committee and any Institute employees involved in the investigation shall sign a statement prior to the commencement of the investigation assuring that any information related to a case of possible misconduct shall not be disclosed, except to the subject(s) of the investigation,

members of the Investigating Committee, the Compliance Officer/President, and representatives of the Cary Institute authorized in writing by the Compliance Officer/President. In addition, all proceedings of the Investigating Committee shall be handled in a discreet and confidential manner. The Compliance Officer/President may include a member or members of the Inquiry Committee on the Investigating Committee. The Compliance Officer/President may also appoint investigators and/or administrators from another institution or institutions to serve as members of the Investigating Committee.

- d. The Investigating Committee shall not be bound by any conclusion reached by the Inquiry Committee. The Investigating Committee shall be empowered to review all primary evidence associated with the alleged misconduct including, but not limited to, relevant research data and proposals, publications, correspondence, electronic mail and memoranda of telephone calls. Whenever possible, interviews shall be conducted with all individuals involved in lodging allegations or participating in the alleged misconduct, as well as other individuals who might have information regarding key aspects of the allegations. Complete summaries of interviews shall be prepared, provided to those interviewed for comment or revision, and included as part of the investigatory file.
- e. The subject(s) of the investigation, together with an attorney of his or her choice, shall be afforded the opportunity to be present during the interview of any individual whose testimony is considered essential by the Investigating Committee in any determination of misconduct. The attorney may serve as advisor to the accused, but will not be permitted to direct questions or concerns or offer argument on behalf of the accused. The investigation is not a trial-type proceeding.
- f. Necessary support (e.g., clerical, information gathering, witness notification, organizational, security, record keeping and confidentiality) shall be arranged by the Compliance Officer/President or his designee.
- g. Subject to the requirements of Paragraph e. above, the Investigating Committee may conduct private and separate sessions to hear the complainant, the subject of the allegations and others as determined necessary. All evidence produced which bears directly upon the charges shall be reviewed and secured. Interviews with any individuals may be recorded for the use of the Investigating Committee.
- h. The report shall be made available for comment to the subject of the investigation and affected individuals deemed appropriate by the Investigating Committee. A reasonable time, as determined by the Compliance Officer/President, should be allowed for response and their comments, if any, should be appended to the report. The Investigating Committee shall then provide the final report of its proceedings, findings, conclusions and recommendations, together with all pertinent documentation and evidence, to the Compliance Officer/President.

- i. The Compliance Officer/President shall review the report of the Investigating Committee and the written comments, if any, of the affected individuals and determine what further action shall be taken.
- j. When scientific misconduct is substantiated, the Compliance Officer/President shall impose appropriate sanctions under applicable policies and contractual agreements, which sanctions may include one or more of the following:
 - (1) Alteration of employment status or termination of employment of those individuals whose misconduct has been substantiated.
 - (2) Withdrawal of all pending abstracts and papers deemed to include affected research and notification of editors of journals or books in which previous abstracts and papers containing these research results were published.
 - (3) Notification of and, if required, restitution to the sponsoring agency.
 - (4) Notification of collaborators regarding any substantiated scientific misconduct related to their research.
 - (5) Notification of institutions and sponsoring agencies with which the individual has been affiliated if reason exists to believe the validity of previous research might be questionable.
- k. At any time that scientific misconduct as defined herein or significant errors are substantiated in any sponsored or reported research, the Compliance Officer/President shall notify in writing the sponsoring agency or publisher without delay. If the research is conducted with federal funds, the sponsoring agency shall be informed of the final outcome of the investigation. The final report will describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings and the basis for the findings, the actual text or an accurate summary of the views of any of the individuals found to have engaged in misconduct, and a description of the sanctions taken by the Cary Institute.
- l. If scientific misconduct is not substantiated, the Compliance Officer/President shall undertake immediate efforts to assist in restoring the reputations of those investigated as well as those who made allegations in good faith.
- m. The Cary Institute shall take any actions necessary at any stage of this process to protect the integrity of a project or the continuity of research.
- n. The investigation process, including preparation of a written report and notification of a sponsoring agency, shall be completed within one hundred twenty (120) days, unless the sponsoring agency agrees in writing to an extension of time.

7. Other Institutional Responsibilities

During any stage of possible misconduct proceedings, the Cary Institute will take appropriate administrative action to protect federal or other sponsor's funds.

For every instance of verified misconduct, the Cary Institute is obligated to report the facts and conclusions of its investigation to (1) the current or potential funding agency or agencies involved, (2) past or potential publications affected and (3) past or present collaborators affected.

8. Reporting and Record Keeping

- a. When federal funds are involved, before an investigation begins, a written report containing the name of the person(s) against whom the allegations have been made, the general nature of the allegations and the proposal or grant number(s) involved, will be prepared and provided to the federal agency.
- b. If the Cary Institute plans to terminate an inquiry or investigation without completing all of the relevant requirements, a report describing reasons for such termination shall be made to the sponsoring agency.
- c.
 - (i) If the Cary Institute determines an inquiry will not be completed within sixty (60) days, the Compliance Officer/President may approve an extension for good cause. The reason for the extension will be entered into the records of the case and into the report, and the subject of the inquiry will be notified of the extension.
 - (ii) If the Cary Institute determines an investigation will not be completed within one hundred twenty (120) days, a written request for extension shall be submitted, if required, to the sponsoring agency explaining the reason(s) for delay, describing the progress to date and providing an estimated date of completion. If an extension is granted, the Cary Institute shall file periodic progress reports as may be requested by the agency.
- d. The Compliance Officer/President shall maintain detailed documentation and records of any inquiry or investigation for at least three (3) years.
- e. Except for disclosure as provided herein, all records relating to any part of this process shall be considered confidential and appropriate protection shall be provided.
- f. The Compliance Officer/President shall apprise the sponsoring agency of any developments during an investigation which disclose facts that affect that agency's funding.

- g. The Compliance Officer/President shall notify the sponsoring agency if it is ascertained at any stage of inquiry or investigation that:
- (1) there is an immediate health hazard involved;
 - (2) there is an immediate need to protect federal funds or equipment;
 - (3) there is an immediate need to protect any individual;
 - (4) the alleged incident is to be reported publicly; or
 - (5) there is reasonable indication of possible criminal violation. In this instance, the Cary Institute shall inform the sponsoring agency within twenty-four (24) hours of obtaining that information.