Hamilton College Policy and Procedures for Responding
to Allegations of Research Misconduct

Introduction

Hamilton College expects its community to honor the highest principles of responsible and ethical behavior in connection with the research conducted by its members. These procedures have been formulated to address any complaints that suggest that such principles may have been violated.

This statement of policy and procedures applies to all research conducted at Hamilton College. For work funded by the Public Health Service, a similar but separate policy and set of procedures, designed to meet Hamilton College’s responsibilities under the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93, is to be employed.

This statement of policy and procedures does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date Hamilton College received the allegation.

I. Definitions

Research Misconduct. For purpose of these procedures, “research” is defined as any scholarly work that incorporates the methods of the social and natural sciences to collect and report data. Misconduct includes, but is not limited to, fabrication, falsification, or plagiarism in proposing, performing, reviewing, or in reporting research. It also includes research activity that is conducted without appropriate Institutional Review Board (as defined by the Hamilton College Policy on Protection of Human Subjects) or Animal Care and Use Committee approval or that deviates from protocols that have been approved by those bodies.

Jurisdiction refers to the purview of the current policy and procedures to deal with the complaint of misconduct. The policies stated herewith apply to any person who, at the time of the alleged research misconduct, was employed by or was affiliated by contract or agreement with this institution. Research misconduct allegations against current students will be forwarded to the Dean of Students for adjudication, including possible procedures involving the Honor Court or Judiciary Board. Allegations against alumni will be forwarded to the Dean of the Faculty.

Deciding Official (DO) means the Dean of the Faculty, who makes final determinations on allegations of research misconduct and any institutional administrative actions. The
DO should have no direct prior involvement in the institution’s investigation, or allegation assessment. A DO’s appointment of an individual to assess allegations of research misconduct or to serve on an investigation committee and the direction of an accuser to the misconduct procedures are not considered to be a conflict of interest.

Research Integrity Officer (RIO) means the institutional official responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct and warrant an investigation on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified; (2) overseeing investigations; and (3) meeting the other responsibilities described in this policy. At Hamilton College, RIO duties will fall to the Associate Dean of the Faculty, unless the Dean of Faculty elects to make an exception in any given year. The DO and RIO will not be the same individual.

II. Rights and Responsibilities

A. Research Integrity Officer

The Dean of the Faculty will appoint the RIO (most likely the associate dean) who will have primary responsibility for implementation of the institution’s policies and procedures on research misconduct. Upon receipt of a complaint, the RIO, after consulting with other institutional officials, will decide whether an investigation is warranted under the definition of research misconduct. A detailed listing of the responsibilities of the RIO is set forth in Appendix A. These responsibilities include the following duties related to research misconduct proceedings:

- Consult confidentially with persons uncertain about whether to submit an allegation of research misconduct;

- Receive allegations of research misconduct;

- Assess each allegation of research misconduct in accordance with Section V.A. of this policy to determine whether it falls within the definition of research misconduct and warrants an investigation;

- Produce a written description of the charge, which will include the information from the accusation that has been submitted, after the deletion and/or addition of elements as appropriate.

- Sequester research data and evidence pertinent to the allegation of research misconduct in accordance with Section V.C. of this policy and maintain it securely in accordance with this policy and applicable law and regulation;

- Provide confidentiality to those involved in the research misconduct proceeding as required by applicable law or institutional policy;
Notify the respondent and provide opportunities for him/her to review/comment/respond to the allegations and committee reports as indicated below in this policy;

Inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;

Appoint the chair of the investigation committee, ensure that the committee is properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;

Determine whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;

Provide the respondent the opportunity to admit that he/she committed research misconduct. With the advice of the RIO and/or other institutional officials, the DO may terminate the institution’s review of an allegation that has been admitted.

In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other institutional members;

Keep the DO and others who need to know apprised of the procedural progress of the review of the allegation of research misconduct. This information will not include the details of testimony or other findings;

Ensure that administrative actions taken by the institution are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of those actions.

B. Complainant

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the investigation. The complainant must be interviewed during an investigation and be given the transcript or recording of the interview for correction.

C. Respondent
The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent is entitled to:

A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an investigation;

Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (within 30 days after the institution decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;

receive a copy of the institution’s policies and procedures on research misconduct;

Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;

Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report;

D. Deciding Official

The DO will receive the investigation report and, after consulting with the RIO and/or other institutional officials, decide the extent to which this institution accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate.

III. General Policies and Principles

A. Responsibility to Report Misconduct

All institutional members will report observed, suspected, or apparent research misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials (e.g., departmental chair) with responsibility for resolving the problem.
At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

B. Cooperation with Research Misconduct Proceedings

Institutional members will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Institutional members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials. Refusal to provide requested research records or documents is itself evidence of misconduct.

C. Confidentiality

The RIO shall (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO will use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

D. Protecting complainants, witnesses, and committee members

Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

E. Protecting the Respondent

As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided for in the policies and procedures of the institution. Respondents may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the
case) to seek advice and may bring a non-lawyer personal adviser to interviews, meetings or hearings on the case.

F. Interim Administrative Actions

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health. In the event of such a threat, the RIO will, in consultation with other institutional officials, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process, reassignment of personnel, additional review of research data and results or delaying publication.

IV. Conducting the Assessment

A. Assessment of Allegations

Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified and whether it is within the jurisdictional criteria and the definition of research misconduct identified in the research misconduct policies and procedures. An investigation must be conducted if these criteria are met.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding.

The RIO shall produce a written description of the charge, which will include the information from the accusation that has been submitted. The RIO, after consideration of the appropriateness of the accusation and any other information that has come forward, may delete and/or add elements to the accusation in documenting the charge.

B. Initiation and Purpose of the Investigation

If the RIO determines that the criteria for an investigation are met, he or she will immediately initiate the investigation process. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research
misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. The findings of the investigation will be set forth in an investigation report as described later in these procedures.

C. Notice to Respondent

At the time of or before beginning an investigation, the RIO must make a good faith effort to notify the respondent in writing. At that time the respondent will be provided a copy of the charge and the institution’s policies and procedures on research misconduct. The respondent will be given 10 days to provide comments with respect to the charge. If the investigation subsequently identifies additional respondents, they must be notified in writing.

D. Sequestration of Research Records

On or before the date on which the respondent is notified, or the investigation begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.

E. Appointment of the Investigation Committee

At the beginning of each academic year, the Dean of the Faculty will appoint a Research Misconduct Review Board. This group will constitute the investigation committee, pending the recusal of any individuals who have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation. The RIO will make the final determination of whether a conflict exists and will appoint the committee chair as soon after the beginning of the investigation as is practical. When necessary to secure the needed expertise or to avoid conflicts of interest, the RIO may appoint committee members from outside the Research Misconduct Review Board.

F. Charge to the Committee and First Meeting

The RIO will prepare a charge for the investigation committee that:

• Sets forth the time for completion of the investigation;
• Describes the allegations and any related issues identified during the allegation assessment;

• Identifies the respondent(s);

• Informs the committee that it must conduct the investigation;

• Defines research misconduct;

• Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;

• Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the research misconduct is a significant departure from accepted practices of the relevant research community; and (3) the respondent committed the research misconduct intentionally, knowingly, or recklessly; and

• Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy.

• Informs the investigation committee that they are responsible for preparing or directing the preparation of a written report of the investigation that meets the requirements of this policy.

V. Conducting the Investigation

A. Initiation and Purpose

The investigation must begin within 30 calendar days after the determination by the RIO that an investigation is warranted. The purpose of the investigation is to confirm or reject whether the allegations fall under the jurisdiction of the Research Misconduct Policies and Procedures, as defined in Section I (Definition: Jurisdiction). If jurisdiction is confirmed, the committee will develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine
whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations.

At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the prescribed procedures and standards for conducting the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this statement of policy and procedures. The RIO will be present or available throughout the investigation to advise the committee as needed.

B. Investigation Process

The investigation committee and the RIO must:

- Evaluate whether the charges fall under the jurisdiction of the committee or whether the process should be forwarded to other mechanisms as described in Section I (Definition: Jurisdiction). If at any point the committee determines that the charges do not fall under its jurisdiction, the investigation will be terminated. The reasons for this determination shall be documented in a memorandum to the RIO and DO.

Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;

Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;

Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and,

Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

C. Time for Completion

All inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing
the report of findings, providing the draft report for comment and sending the final report to the DO.

VI. The Investigation Report

A. Elements of the Investigation Report

The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:

- Describes the nature of the allegation of research misconduct, including identification of the respondent;
- Describes the specific allegations of research misconduct considered in the investigation;
- Includes the institutional policies and procedures under which the investigation was conducted;
- Provides an explanation of why the allegations meet the criteria indicating that the jurisdiction of the policies and procedures is appropriate. Alternatively, if the criteria were not met, the report will indicate that and not address subsequent consideration of analysis of possible misconduct.
- Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify the nature of the research misconduct and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion; (3) identify whether any publications need correction or retraction; and (4) identify the person(s) responsible for the misconduct.

B. Comments on the Draft Report and Access to Evidence

1. Respondent
The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 days from the date he/she received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report.

2. Confidentiality

In distributing the draft report, or portions thereof, to the respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available and will ensure such confidentiality by requiring that the recipient sign a confidentiality agreement.

VII. Completion of Cases

The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent’s comments are included and considered, and transmit the final investigation report to the DO, who will inform both the respondent and the complainant in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.

The DO 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 relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

VIII. Institutional Administrative Actions

If the DO determines that research misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the RIO. The administrative actions may include:

Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of procedures defined in Section X of the Faculty Handbook;

Other action appropriate considering the nature of the research misconduct.

X. Other Considerations

A. Termination or Resignation Prior to Completing the Investigation

The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution’s responsibilities. If the respondent, without admitting to the misconduct, elects to resign his or her position after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

B. Protection of the Complainant, Witnesses and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

C. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the complainant’s allegations of research misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith he/she will determine whether any administrative action should be taken against the person who failed to act in good faith.
Research Integrity Officer Responsibilities

Accusation

Who is Accused?

- Student
- Employee/Contract
- Alumnus
- DOF

Assess Complaint

Does Not Meet Criteria

- Meets Criteria

Is PHS Funding Involved?

- Yes

Dismiss

- Notify ORI
- Secure Records

- Formulate the Charge
- Appoint Misconduct Committee Chair
- Review Composition of Misconduct Committee and Adjust if Necessary
- Notify the Respondent
- Sequester Research Records
- Provide Support for the Investigation Process
- Attempt to Ensure Confidentiality in the Process
- Ensure Enforcement of Administrative Actions
- Inform Affected Parties of the Misconduct