

## § 422.2

to develop their own research misconduct procedures;

(5) Monitoring the progress of all research misconduct cases; and

(6) Serving as liaison with OIG to receive allegations of research misconduct when they are received via the OIG Hotline.

### § 422.2 Procedures.

Research institutions that conduct extramural research funded by USDA must foster an atmosphere conducive to research integrity. They must develop or have procedures in place to respond to allegations of research misconduct that ensure:

(a) Appropriate separations of responsibility for inquiry, investigation, and adjudication;

(b) Objectivity;

(c) Due process;

(d) Whistleblower protection;

(e) Confidentiality. To the extent possible and consistent with a fair and thorough investigation and as allowed by law, knowledge about the identity of subjects and informants is limited to those who need to know; and

(f) Timely resolution.

### § 422.3 Inquiry, investigation, and adjudication.

A research institution that conducts extramural research funded by USDA bears primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct allegations reported directly to it. The research institution must perform an inquiry in response to an allegation, and must follow the inquiry with an investigation if the inquiry determines that the allegation or apparent instance of research misconduct has substance. The responsibilities for adjudication must be separate from those for inquiry and investigation. In most instances, USDA will rely on a research institution conducting extramural research to promptly:

(a) Initiate an inquiry into any suspected or alleged research misconduct;

(b) Conduct a subsequent investigation, if warranted;

(c) Acquire, prepare, and maintain appropriate records of allegations of extramural research misconduct and

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all related inquiries, investigations, and findings; and

(d) Take action to ensure the following:

(1) The integrity of research;

(2) The rights and interests of the subject of the investigation and the public are protected;

(3) The observance of legal requirements or responsibilities including cooperation with criminal investigations; and

(4) Appropriate safeguards for subjects of allegations, as well as informants (see § 422.6). These safeguards should include timely written notification of subjects regarding substantive allegations made against them; a description of all such allegations; reasonable access to the data and other evidence supporting the allegations; and the opportunity to respond to allegations, the supporting evidence and the proposed findings of research misconduct, if any.

### § 422.4 USDA Panel to determine appropriateness of research misconduct policy.

Before USDA will rely on a research institution to conduct an inquiry, investigation, and adjudication of an allegation in accordance with this part, the research institution where the research misconduct is alleged must provide the ARIO its policies and procedures related to research misconduct at the institution. The research institution has the option of providing either a written copy of such policies and procedures or a Web site address where such policies and procedures can be accessed. The ARIO to whom the policies and procedures were made available shall convene a panel comprised of the USDA RIO and ARIOS from the Forest Service, the Agricultural Research Service, and the National Institute of Food and Agriculture. The Panel will review the research institution's policies and procedures for compliance with the OSTP Policy and render a decision regarding the research institution's ability to adequately resolve research misconduct allegations. The ARIO will inform the research institution of the Panel's determination that its inquiry, investigation, and adjudication procedures are

sufficient. If the Panel determines that the research institution does not have sufficient policies and procedures in place to conduct inquiry, investigation, and adjudication proceedings, or that the research institution is in any way unfit or unprepared to handle the inquiry, investigation, and adjudication in a prompt, unbiased, fair, and independent manner, the ARIO will inform the research institution in writing of the Panel's decision. An appropriate USDA agency, as determined by the Panel, will then conduct the inquiry, investigation, and adjudication of research misconduct in accordance with this part. If an allegation of research misconduct is made regarding extramural research conducted at a Federal research institution (whether USDA or not), it is presumed that the Federal research institution has research misconduct procedures consistent with the OSTP Policy. USDA reserves the right to convene the Panel to assess the sufficiency of a Federal agency's research misconduct procedures, should there be any question whether the agency's procedures will ensure a fair, unbiased, equitable, and independent inquiry, investigation, and adjudication process.

**§ 422.5 Reservation of right to conduct subsequent inquiry, investigation, and adjudication.**

(a) USDA reserves the right to conduct its own inquiry, investigation, and adjudication into allegations of research misconduct at a research institution conducting extramural research subsequent to the proceedings of the research institution related to the same allegation. This may be necessary if the USDA RIO or ARIO believes, in his or her sound discretion, that despite the Panel's finding that the research institution in question had appropriate and OSTP-compliant research misconduct procedures in place, the research institution conducting the extramural research at issue:

- (1) Did not adhere to its own research misconduct procedures;
- (2) Did not conduct research misconduct proceedings in a fair, unbiased, or independent manner; or
- (3) Has not completed research misconduct inquiry, investigation, or adjudication in a timely manner.

(b) Additionally, USDA reserves the right to conduct its own inquiry, investigation, and adjudication into allegations of research misconduct at a research institution conducting extramural research subsequent to the proceedings of the research institution related to the same allegation for any other reason that the USDA RIO or ARIO considers it appropriate to conduct research misconduct proceedings in lieu of the research institution's conducting the extramural research at issue. This right is subject to paragraph (c) of this section.

(c) In cases where the USDA RIO or ARIO believes it is necessary for USDA to conduct its own inquiry, investigation, and adjudication subsequent to the proceedings of the research institution related to the same allegation, the USDA RIO or ARIO shall reconvene the Panel, which will determine whether it is appropriate for the relevant USDA agency to conduct the research misconduct proceedings related to the allegation(s) of research misconduct. If the Panel determines that it is appropriate for a USDA agency to conduct the proceedings, the ARIO will immediately notify the research institution in question. The research institution must then promptly provide the relevant USDA agency with documentation of the research misconduct proceedings the research institution has conducted to that point, and the USDA agency will conduct research misconduct proceedings in accordance with the Agency research misconduct procedures.

**§ 422.6 Notification of USDA of allegations of research misconduct.**

(a) Research institutions that conduct USDA-funded extramural research must promptly notify OIG and the USDA RIO of all allegations of research misconduct involving USDA funds when the institution inquiry into the allegation warrants the institution moving on to an investigation.

(b) Individuals at research institutions who suspect research misconduct at the institution should report allegations in accordance with the institution's research misconduct policies and procedures. Anyone else who suspects