211 Misconduct in Research and Other Scholarly Activities and Research Activity

Approved by President ________________________________

Sidney A. McPhee, President

Effective Date: June 5, 2017 , 2021

Responsible Division: Academic Affairs

Responsible Office: Vice Provost for Research

Responsible Officer: Vice Provost for Research

I. Purpose

A. Research is an integral and essential component of Middle Tennessee State University's (MTSU or University) educational mission, which includes the creation of new knowledge through research, application of that knowledge through teaching and public service, preserving that knowledge in the University's libraries, databases, and journals, and transferring that knowledge to future generations of scholars through teaching and publications. The pursuit, preservation, and transfer of that new knowledge must express the highest scholarly standards and reflect the character and integrity of the University and its faculty and students. Without integrity, the University could not justify the privilege of academic freedom intrinsic to scholarship and education, nor could it provide to society the advancements of knowledge that derive from free and open inquiry.

B. MTSU is committed to fostering an environment in which the highest ethical standards in the conduct of research and other scholarly activities are followed. The primary responsibility for maintaining such standards of honesty in the pursuit and dissemination of knowledge rests with the faculty, their collaborating staff members, and students. An individual engaged in research and other scholarly activities must be aware of the ethical standards governing his/her discipline and of applicable regulations. Persons subject to this policy should report conduct that they believe in good faith constitutes misconduct in research or other scholarly activities.

C. This University policy defines the rights, responsibilities, and procedures for dealing with allegations of misconduct in research and other scholarly activities. It is designed to address important issues of scientific integrity that arise in the course of daily academic life and to ensure the University's compliance with applicable federal laws. It serves the purpose of protecting the integrity and reputation of the University and its scholars as well as the research and scholarship produced by members of the MTSU community. Violation of this policy is grounds for administrative
sanction, including but not limited to, suspension or termination of employment. The University strives to ensure that all members of its community understand and uphold this policy.

II. Scope and Applicability

This policy is applicable to all members of the MTSU community including, but not limited to, faculty, staff, and students when they are employed by the University or and involved in the conduct of externally sponsored research, or other scholarly activity. Allegations of academic misconduct by a student not covered by this policy will may be examined using the procedures specified in Policy 312 Academic Misconduct. The standards outlined in this policy relate to Public Health Service (PHS) supported projects and/or any other funded or non-funded efforts. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for funds resulted in a grant, contract, or cooperative agreement, or other form of support. The following are key principles that inform guidelines set forth in this policy:

A. Misconduct in research or scholarly activity includes fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the academic community for proposing, conducting, or reporting research or other scholarly accomplishments. It does not include honest errors or honest differences in interpretations or judgments of data.

B. Possible sanctions for misconduct in research or scholarly activity include, but are not limited to:

1. Reprimand;
2. Removal from a research project;
3. Restitution of funds to a funding source;
4. Special monitoring of future work;
5. Probation;
6. Rank reduction;
7. Withdrawal or correction of pending or published scholarship; and
8. Suspension or termination of employment.

C. Misconduct in research or Misconduct in research or other scholarly activity is a major breach of the relationship between a faculty or staff member and MTSU. In order to
maintain integrity, every person engaged in research or other scholarly activity must keep a permanent auditable record of all experimental or similar protocols, data, and findings or comparable records. Co-authors on research reports of any type, including publications, must have had a bona fide role in the research and must accept responsibility for the quality of the work reported.

DB. Research or other scholarly activities that involve faculty-student collaboration are encouraged and may be positively recognized in faculty personnel processes. Issues related to faculty-student collaboration may include matters such as expected contributions of each party, order of authorship, and/or type of citation to be given, and must be addressed early in any research or other scholarly project, preferably in writing. Decisions must be congruent with the ethics and scholarly customs of each discipline involved. Specific recognition of the nature and scope of individual student contributions must be made in all published materials.

EC. But for exceptions provided in 42 CFR 393.105, the process provided in this policy applies only to research misconduct in research or other scholarly activities occurring within six (6) years of the date an allegation of misconduct is received.

III. Definitions

A. Allegation. Disclosure, through any means of communication, of possible misconduct in research or other scholarly activity made to a University official.

B. Complainant. A person who makes an allegation of misconduct in research or other scholarly activity.

C. Conflict of interest. The real or apparent interference of one person's interest with the interests of another person, where potential bias may occur due to prior or existing personal, professional, or financial relationships. See Policies 12 Conflict of Interest and 404 Conflict of Interest for Externally Funded Projects.

D. Evidence. Any document, tangible or intangible item or other matter having evidentiary value, or testimony offered or obtained during a misconduct in research or other scholarly activity proceeding that tends to prove or disprove the existence of an alleged fact.

E. Good Faith Allegation. Having a belief in the truth of one's allegation or testimony that a reasonable person would have based on the information known at the time. An allegation or testimony is not made in good faith if it is made with knowing or reckless disregard for, or willful ignorance of, facts that would disprove the allegation.
F. Inquiry. Initial information-gathering and fact-finding to determine whether an allegation or apparent instance of research or other scholarly activity misconduct warrants an investigation.

G. Investigation. Formal examination and evaluation of all relevant facts to determine if misconduct in research or other scholarly misconduct activity has occurred and, if so, to determine the responsible person(s) and determine an appropriate administrative action.

H. Research Misconduct. Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Misconduct in research or other scholarly activity (misconduct) includes, but is not limited to: fabrication; falsification; misrepresentation; plagiarism; failure to provide periodic reporting; failure to promote, or to sustain, collegial collaboration; failure to monitor and/or manage student researchers or graduate assistants; intentional bypass of academic or scientific research procedures; self-dealing; financial conflict of interests (whether current or potential monetary value); or other practices that significantly deviate from those that are commonly accepted within the academic community for proposing, conducting, reviewing, or reporting research or other scholarly accomplishments. This does not include honest errors or honest differences in interpretations or judgments of data.

1. Fabrication is making up data or results and recording or reporting them.

2. 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.

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

4. Research misconduct does not include honest error or differences of opinion.

I. Public Health Service (PHS). The unit within the Department of Health and Human Services (HHS) that includes the Office of Public Health and Science and the following Operating Divisions: Agency for Healthcare Research and Quality, Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, Food and Drug Administration, Health Resources and Services Administration, Indian Health Service, National Institutes of Health, and the Substance Abuse and Mental Health Services Administration, and the offices of the Regional Health Administrators.

J. Research Compliance Integrity Officer. The University official responsible for assessing allegations of research or scholarly misconduct and determining when such allegations
warrant inquiries. The Research Compliance Integrity Officer (RIO) shall also oversee inquiries and assist with investigations. The Vice Provost for Research shall serve as the RIO.

K. Research or Other Scholarly Activity Record (record). Any data, document, computer file, digital media, 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 or other scholarly activity that constitutes the subject of an allegation of misconduct. A research or other scholarly activity 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 of biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procedure records; animal facility records; human and animal subject protocols; consent forms; and participant research files.

L. Respondent. Person(s) against whom an allegation of research or scholarly activity misconduct is directed or the person(s) whose actions are the subject of the inquiry or investigation.

M. Retaliation. An adverse action taken against a complainant, witness, or committee panel member by University or one of its members in response to a good faith allegation of research or scholarly misconduct; or, good faith cooperation with a research misconduct proceeding.

N.- U.S. Department of Health and Human Services, Office of Research Integrity. The Office of Research Integrity (ORI) oversees and directs Public Health Service (PHS) research integrity activities on behalf of the Secretary of Health and Human Services with the exception of the regulatory research integrity activities of the Food and Drug Administration. ORI carries out its responsibility by developing policies, procedures, and regulations related to the detection, investigation, and prevention of research misconduct and the responsible conduct of research; reviewing and monitoring research misconduct investigations conducted by applicant and awardee institutions, intramural research programs, and the Office of Inspector General in the Department of HHS; and recommending research misconduct findings and administrative actions to the Assistant Secretary for Health for decision, subject to appeal.

O. Vice Provost for Research (VPR). The Vice Provost for Research (VPR) works closely with the Provost, his/her staff, the Deans, and Department Chairs on research policy. The VPR is designated the Research Integrity Officer and has ultimate authority for administering the provisions of this policy. The VPR keeps the Provost and any other appropriate University officials or entities informed throughout the progress of an investigation.
IV. Process

A. General

1. Any inquiry or investigation into allegations of misconduct in research or in other scholarly activities must proceed promptly and with due regard for the reputation and rights of all individuals involved.

2. The University will take all reasonable steps to assure that:

   a. The persons involved in the evaluation of the allegations and evidence have appropriate expertise.

   b. No person involved in an inquiry or investigation of alleged misconduct the procedures is either biased against the respondent(s) or has any personal, professional, or financial conflict of interest involving the respondent(s).

   c. The respondent(s) and other University members cooperate with research misconduct proceedings, including, but not limited to, their providing information, research records, and evidence.

   d. The matter will be treated confidentially and all affected individuals, including research subjects identifiable from research records or evidence, will receive confidential treatment to the maximum extent possible and as allowed by law.

   e. If University officials determine that release of information outside the University is necessary, respondent(s) are informed of the release.

   f. If confidentiality is improperly breached, University officials take reasonable steps to minimize the damage to respondent's reputation.

   g. All reasonable and practical efforts to protect or restore the position and reputation of any complainant, witness, or committee member, and to counter potential or actual retaliation against these complainants, witnesses, and committee members are taken.

   h. It will cooperate with ORI during any research misconduct proceeding or compliance review for activity that falls under the purview of ORI; and will assist in administering and enforcing any HHS administrative actions imposed on its institutional members.

   i. ORI is notified, in advance, if the case is closed at the inquiry, investigation, or appeal stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except the
closing of a case at the inquiry stage on the basis that an investigation is not warranted or a finding of no misconduct at the investigation stage, which must be reported to ORI.

3. Complainants and witnesses are expected to act in good faith, to cooperate in any review of a misconduct allegation, and to treat the matter confidentially. A complainant or witness determined to have acted in bad faith may be disciplined in accordance with University policies.

4. Retaliation against a complainant(s), a witness, or any committee member is misconduct that may result in discipline in accordance with University policies.

5. Legal advice should be sought from the Office of the University Counsel at all stages.

6. All records related to the review of an allegation of misconduct in research or scholarly activity, regardless of outcome, shall be maintained for a minimum of seven (7) years, unless custody of the records has been transferred to HHS, or ORI has advised the University in writing that it no longer needs to retain the records.

7. The VPR/RIIO shall assure timely compliance with any funding agency regulations regarding the reporting and disclosure of information relevant to misconduct in research or scholarly activities. He/she, They shall promptly notify the appropriate funding agency and the U.S. Department of Health and Human Services (USDHHS) ORI at any time during a misconduct proceeding if he/she, they have reason to believe that any of the following conditions exist: (1)

   a. the health and safety of the public is at risk, including an immediate need to protect human or animal subjects; (2)

   b. public funds, resources, or interests are threatened; (3)

   c. research activities should be suspended; (4)

   d. there is reasonable indication of possible violation of civil or criminal law; (5)

   e. the University believes that the research or scholarly activities misconduct proceedings may be made public prematurely (so that the funding agency may take appropriate steps to safeguard evidence and protect the rights of those involved); or, (6)

   f. there exist other reasons that the University determines that the research community or public should be informed.
B. Reporting of Allegations: An allegation of misconduct in research or scholarly activities can be made by any means of communication and shall be made to the University's Research Compliance Officer (RCO). The RCO shall, in a timely manner, report it in confidence to the Department Chair and the Dean of the school, college, or other administrative unit head (Dean) in which the respondent(s) holds an appointment, is a student, fellow, or trainee, or to which the respondent(s) is/are assigned for supervision. If the respondent is the reporting individual's chair, allegations may be reported by the RCO to the Dean of the department's school/college. If the respondent is a Dean or Director, the allegation may be reported to the appropriate vice president. The VPR will be apprised of all allegations of misconduct reported to the RCO.

Following the receipt of allegations, if the VPR determines that the allegation is sufficiently credible and specific so that potential evidence of misconduct may be identified, involves PHS support, or, falls under the definition of research or other scholarly misconduct, they will immediately initiate the inquiry process. In initiating the inquiry, the VPR should identify clearly the original allegations and any related issues that should be evaluated.

C. Inquiry: The purpose of the inquiry is to make a preliminary evaluation of the available evidence to determine whether to conduct an investigation. If it is determined that the allegations have met one (1) or more of the criteria to warrant an inquiry, an inquiry will be conducted by the RCO in conjunction with the Dean to determine whether the allegations are warranted or for other reasons does not support the need for an investigation. At the time of or before beginning an inquiry, the RCO must make a good faith effort to notify the presumed respondent(s) in writing. The RCO and the Dean must meet with respondent(s) to inform them of the nature of the charges, the University procedures for handling them, and the respondent's obligation to cooperate with the proceedings and to provide documentary evidence. The RCO will, on or before the date on which the respondent(s) is/are notified in writing, promptly take all reasonable and practical steps to obtain custody of all the research or other appropriate 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 or other appropriate 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.
An investigation is warranted if there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; involves PHS support; and/or, preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance. If the RCO/ROI determines that the inquiry does not support the need for an investigation, a written report of the findings will be placed in the file, and the matter shall be closed. If the inquiry supports the need for an investigation, an inquiry report will be drafted, and a formal investigation will be initiated. The inquiry report will include the following information: the name and position of the respondent(s); a description of the allegations of research misconduct; the PHS support including, for example, grant numbers, grant applications, contracts, and publications listing PHS support; the basis for recommending that the alleged actions warrant an investigation; and, any comments on the part of the respondent(s) or the complainant. The respondent(s) shall be informed in writing of the allegations, the findings from the inquiry, and if an investigation is warranted, the process that will be followed in pursuing the allegations. The respondent(s) shall have an opportunity to review the inquiry report and to submit comments, which will be attached as an addendum to it. The respondent(s) will also be given a copy of this policy as well as written information on the research or scholarly activities records and evidence reviewed in making the assessment that an inquiry was warranted.

Within sixty (60) calendar days from initiation, the inquiry shall be completed and a written report from the RCO/ROI of the inquiry findings submitted to the VPR, the respective Dean, the respondent(s), and the complainant(s). If the inquiry takes longer than sixty (60) calendar days to complete, the record of the inquiry shall include documentation of the reasons for exceeding the sixty (60)-day period.

Within thirty (30) days of finding that an investigation is warranted, the VPR/ROI will provide ORI with a copy of the inquiry report, when it involves an NIH-funded activity, or the research falls under the purview of the Institutional Review Board (IRB) or the Institutional Animal Care and Use Committee (IACUC).

D. Investigation.

1. The primary purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. If, at the conclusion of the inquiry, it is determined that there is sufficient basis to continue with an investigation, the RCO/ROI shall notify the VPR, and begin the investigation shall begin within thirty (30) days after that determination. The VPR/ROI shall notify the respondent(s) in writing of the allegations within a reasonable amount of time after determining that an investigation is warranted, but before the investigation begins. Once the investigation begins, it must be completed within a one-hundred twenty (120)-day period to include the selection of the committee members, investigation proceedings, review of draft findings by respondent, final
determination, final report of the findings, any appeal filed by the respondent, and submission of notifications. If the respondent(s) submits an appeal of the findings, the appeal must be completed within the one-hundred twenty (120)-day timeframe. If the investigation takes longer than one-hundred twenty (120) days to complete, the record of the investigation shall include documentation of the reasons for exceeding the one-hundred twenty (120)-day period, and the RIO will notify the respondent and Provost in writing to provide justification for the extension of the timeframe and a new end date for the process. Any extension must be approved by the Provost. Also see D.14. regarding ORI.

2. An investigation panel shall be appointed by the VPRRIO, in consultation with the RCO Director of ORSP and the Dean of the school or college (or unit head of the relevant unit) in which the respondent(s) holds his/her primary appointment. Panel members may not have assisted with the inquiry for the allegation being considered by the investigation panel. The panel will be composed of the President of the Faculty Senate and a minimum of five (5) members, one of whom will serve as the Chair. The Chair’s responsibilities include:

   a. Keeping records of the material reviewed and interviews conducted;
   
   b. Informing respondent(s) of the substance of the evidence and interviews;
   
   c. Furnishing respondent(s) with copies of, or access to, all documentary evidence;
   
   d. Notifying respondent(s) in writing of any broadening of the scope of the investigation; and,
   
   e. Forwarding the final report and all relevant supporting evidence to the VPRRIO.

3. All members of the investigation panel who are drawn from the University academic community must be tenured full-time faculty, and at least two (2) of the panel members should be knowledgeable together possess the scholarly or scientific disciplinary necessary expertise to enable them to evaluate authoritatively the relevant evidence of the respondent(s)-alleged misconduct and to conduct an investigation. Additionally, up to two (2) of the panel members may be drawn from outside the University academic community. The VPRRIO will provide the respondent(s) with a list of the investigation panel members. The respondent(s) will have the opportunity to challenge any member of this panel for cause; such challenges must be made in writing, state a compelling reason for the challenge, and be submitted to the VPRRIO within five (5) days of receipt of the communication outlining the panel's composition. The VPRRIO, in consultation with the Dean and RCO, will review any challenges presented by the respondent(s). If they find compelling evidence that any panel member cannot function in a fair and impartial fashion, that panel member will be discharged and a new member appointed.
4. The investigation panel may expand the investigation to include other projects with which the respondent(s) is or has been involved where the investigation thus far: { 
   a).__ suggests a substantive link between the project under investigation and other projects; {  
   b).__ establishes that the same research team was or may have been involved in other projects; {  
   c).__ indicates a pattern or practice of misconduct; or, {  
   d).__ reveals other appropriate circumstances under which review should be expanded. If the investigation uncovers new evidence of misconduct not previously alleged, the RCORIO shall give the respondent(s) a written amended allegation.  

5. To the extent it has not already been done, all reasonable and practical steps will be taken to obtain custody of all research records and evidence needed to conduct the investigation and to inventory and sequester them in a secure manner, including any additional items that become known or relevant to the investigation.  

6. The investigation panel shall:  
   a. 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 the allegations;  
   b. Interview each respondent, the 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. Each interview will be recorded or transcribed, and the recording or transcript will be provided to the interviewee for correction. The recordings or transcript will become part of the record of the investigation;  
   c. Pursue all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.  

7. The University has the burden of proof when making a finding of misconduct. A finding of misconduct must be proved by a preponderance of the evidence: proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not. In addition, the misconduct must have been committed intentionally, knowingly, or recklessly; and there must have been a significant departure from accepted practices of the relevant research community.
8. After the investigation is completed, the VPR will provide the respondent with a draft of the investigation report to contain the information specified below, and a copy of, or supervised access to, the evidence on which the report is based. Any written comments must be submitted by the respondent(s) within thirty (30) days of the date on which the respondent(s) received the draft investigation report.

9. Once the investigation is completed, an investigation report must be drafted. The report shall be in writing and include: - a description of the nature of the allegation(s) of research misconduct; any PHS or other funded support, including, for example, any grant numbers, grant applications, contracts, and publications listing PHS support; specific allegation(s) of research misconduct for consideration in the investigation; institutional policies and procedures under which the investigation was conducted; research records and evidence reviewed, including any evidence taken into custody but not reviewed; findings as to whether research misconduct did or did not occur for separate allegation(s) of research misconduct identified during the investigation; whether the research misconduct was determined to be falsification, fabrication, or plagiarism, intentional, knowing, or in reckless disregard; the facts and the analysis which support the conclusion and the merits of any reasonable explanation by the respondent; any publications needing correction or retraction; person(s) responsible for the misconduct; any current support or known applications or proposals for support that the respondent has pending with non-PHS federal agencies; any opportunities given to respondent(s) to comment on investigation findings; any comments made by the respondent(s) to the draft investigation report; and any administrative actions taken by the University.

9. After the investigation is completed, the RIO will provide the respondent with a draft of the investigation report to contain the information specified above, and a copy of, or supervised access to, the evidence on which the report is based. Any written comments must be submitted by the respondent within thirty (30) days of the date on which the respondent received the draft investigation report. If the respondent submits written comments, the RIO will provide them to the panel for a determination of whether the report should be revised or not, or if continued investigation is warranted.

10. The VPR/RIO will provide a copy of the final investigation report to the respondent(s), complainant(s), Dean, the RCO, the Provost, Office of the University Counsel, ORI, and any other appropriate officials or entities.

11. In cases where there is support for the allegation, the investigation panel in consultation with the RCO/RIO and the Dean shall recommend to the VPR an appropriate course of action. Upon recommendation of the VPR/RIO to the Provost, disciplinary action under applicable University policies concerning faculty, personnel, administrators, and others in the university and academic community may be instituted. Disciplinary action may include, but is not limited to: removal
from a particular project; letter of reprimand; special monitoring of future work; restitution of funds to a funding source; withdrawal or correction of pending or published scholarship; probation; suspension; rank reduction; and, termination or dismissal from employment. If the investigation reveals that seriously erroneous research has been published, the VPR, RIO, together with the scholars involved should attempt to correct the published record.

11.12. The respondent(s) will have the option to submit a written appeal to the VPRIO within ten (10) days of the date of receipt of the investigation report. The appeal must specify grounds which would justify consideration and explain how and why the outcome of the investigation proceedings would be different. An appeal may only be submitted on one or more of the following bases:

a. Material error in process or procedure which would have altered the outcome of the matter;

b. Lack of material evidence to substantiate the decision or incorrect analysis of the evidence;

c. Emergence of new evidence which could not have been previously discovered by the exercise of due diligence and which, had it been presented during the investigation, would have substantially affected the decision of the investigation panel.

12.13. In the appeal, the burden of proof is upon the respondent(s). The VPRIO will consider the appeal, and after consultation with the investigation panel, will render a final decision.

13.14. If the activity was funded by the NIH or the research falls under the purview of the IRB or the IACUC, within one hundred twenty (120) days of the initiation of the investigation, the University shall send the ORI a final investigation report, including results from any appeal(s) shall be submitted to ORI. If the investigation will take longer than one hundred twenty (120) days, the University will submit a written request for an extension to ORI to include an explanation for the extension.

Forms: none.

Revisions: June 5, 2017 (original); __________, 2021.

Last Reviewed: November 2020_________2021.

References: 42 CFR Part 93; Policies 12 Conflict of Interest; 312 Academic Misconduct; 404 Conflict of Interest for Externally Funded Projects.