

# Diné College Procedures for Responding to Allegations of Research Misconduct

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## I. Introduction

**A. General Policy** Diné College is committed to fostering a research environment that promotes responsible and ethical conduct of research. The College does not tolerate research misconduct and requires personnel to report concerns of suspected research misconduct. This policy establishes procedures for addressing allegations of research misconduct in a fair, competent, and thorough manner; and in accordance with applicable sponsor regulations and institutional values.

**B. Scope** This policy applies to allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results) involving:

1. Any person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with Diné College; and
2. Any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for external funds resulted in a grant, contract, cooperative agreement, or other form of support.

## II. Definitions

1. **Research Misconduct:** Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.
  - **Fabrication** is making up data or results and recording or reporting them.
  - **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.
  - **Plagiarism** is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
2. **Inquiry:** Preliminary information-gathering and fact-finding to determine whether an allegation or apparent instance of research misconduct warrants an investigation.
3. **Investigation:** The formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct.
4. **Intentional:** An act committed with the express purpose of achieving a particular result.
5. **Knowingly:** An act committed with an awareness that the act is of a certain nature or that a certain circumstance exists.
6. **Recklessly:** An act committed with a conscious disregard of a substantial and unjustifiable risk that the act will result in a particular consequence.

### **III. Rights and Responsibilities**

**A. Research Integrity Officer** The Dean of the relevant academic area will serve as the Research Integrity Officer (RIO) and will have primary responsibility for implementation of the procedures set forth in this document. The RIO will be responsible for:

1. Assessing allegations of research misconduct to determine if they fall within the definition of research misconduct and warrant an inquiry;
2. Overseeing inquiries and investigations;
3. Providing confidentiality to those involved in the research misconduct proceeding as required by applicable law and institutional policy.

**B. Complainant** The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation.

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

1. A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an inquiry;
2. An opportunity to comment on the inquiry report and have his/her comments attached to the report;
3. Be notified of the outcome of the inquiry, and receive a copy of the inquiry report;
4. 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.

**D. Deciding Official** The President of Diné College will serve as the Deciding Official (DO). The DO will receive the inquiry report and after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted. The DO will receive the investigation report and, after consulting with the RIO and/or other institutional officials, decide the extent to which Diné College accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate.

### **IV. General Policies and Principles**

**A. Responsibility to Report Misconduct** All institutional members will report observed, suspected, or apparent research misconduct to the RIO.

**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.

**C. Confidentiality** To the extent allowed by law, Diné College shall maintain the identity of respondents and complainants securely and confidentially and shall not disclose any identifying information, except to those who need to know in order to carry out a thorough, competent, objective, and fair research misconduct proceeding. During a research misconduct proceeding, Diné College may disclose the identities of respondents, complainants, and witnesses to legitimate third parties, such as institutional review boards, journals, editors, publishers, co-authors, and collaborating institutions, if there is a legitimate need for such third parties to know. Once a final determination of research misconduct findings has been made by Diné College, the institution is no longer bound by confidentiality regarding those findings.

**D. Protecting complainants, witnesses, and committee members** Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Any alleged or apparent retaliation should be reported to the RIO, who shall review the matter.

**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.

**F. Allegations Not Made in Good Faith** If the Deciding Official determines that a complainant's allegations of research misconduct were not made in good faith, the Deciding Official will determine whether any administrative action should be taken against the complainant.

**G. Evidentiary Standards** A finding of research misconduct made under this policy requires that:

1. There be a significant departure from accepted practices of the relevant research community; and
2. The misconduct be committed intentionally, knowingly, or recklessly; and
3. The allegation be proven by a preponderance of the evidence.

**Burden of Proof:**

- The burden of proof for making a finding of research misconduct rests with Diné College.

- A respondent's destruction of research records documenting the questioned research is evidence of research misconduct where the institution establishes by a preponderance of the evidence that the respondent intentionally or knowingly destroyed records after being informed of the research misconduct allegations.
- A respondent's failure to provide research records documenting the questioned research is evidence of research misconduct where the respondent claims to possess the records but refuses to provide them upon request.
- The respondent has the burden of going forward with and proving, by a preponderance of the evidence, all affirmative defenses raised and any mitigating factors relevant to a decision to impose administrative actions after a research misconduct proceeding.

**H. Interim Administrative Actions and Notifying ORI of Special Circumstances** Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal funds and equipment, or the integrity of the research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and ORI, take appropriate interim action to protect against any such threat.

## **V. Conducting the Assessment and Inquiry**

**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 the allegation falls within the definition of research misconduct. An inquiry must be conducted if these criteria are met.

**B. Initiation and Purpose of the Inquiry** If the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation.

**C. Notice to Respondent; Sequestration of Research Records** At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing. On or before the date on which the respondent is notified, or the inquiry 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.

**D. Appointment of the Inquiry Committee** The RIO, in consultation with other institutional officials as appropriate, will appoint an inquiry committee consisting of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with

the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation.

**E. Inquiry Process** The inquiry committee will normally interview the complainant, the respondent, and key witnesses as well as examining relevant research records and materials. The inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted.

**F. Time for Completion** The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period.

## **VI. The Investigation**

**A. Initiation and Purpose** The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted. 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.

**B. Notifying ORI and Respondent; Sequestration of Research Records** On or before the date on which the investigation begins, the RIO must: (1) notify the ORI Director of the decision to begin the investigation and provide ORI a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated.

**C. Appointment of the Investigation Committee** The RIO, in consultation with other institutional officials as appropriate, will appoint an investigation committee as soon after the beginning of the investigation as is practical. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation.

**D. Investigation Process** The investigation committee and the RIO must:

1. 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, including assessing whether the



- misconduct was committed intentionally, knowingly, or recklessly, and if there was a significant departure from accepted practices of the relevant research community;
2. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
  3. 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
  4. 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.

**E. Time for Completion** 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 ORI. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit to ORI a written request for an extension.

## **VII. 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:

1. Describes the nature of the allegation of research misconduct, including identification of the respondent;
2. Describes and documents the PHS support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing PHS support;
3. Describes the specific allegations of research misconduct considered in the investigation;
4. Includes the institutional policies and procedures under which the investigation was conducted;
5. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
6. Includes a statement of findings for each allegation of research misconduct identified during the investigation, addressing whether the misconduct was committed intentionally, knowingly, or recklessly, and if there was a significant departure from accepted practices of the relevant research community.

**B. Comments on the Draft Report and Access to Evidence** 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.

**C. Decision by Deciding Official** 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 determine 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.

**D. Notice to ORI of Institutional Findings and Actions** Unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation, submit the following to ORI: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

**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:

1. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
2. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
3. Restitution of funds to the grantor agency as appropriate.

## **IX. Other Considerations**

**A. Termination or Resignation Prior to Completing Inquiry or 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.

**B. Restoration of the Respondent's Reputation** Following a final finding of no research misconduct, including ORI concurrence where required by 42 CFR Part 93, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the

respondent's reputation.

**C. Protection of the Complainant, Witnesses and Committee Members** During the research misconduct proceeding and upon its completion, regardless of whether the institution or ORI 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.

**D. Reporting to NSF Office of Inspector General (OIG)** Diné College will inform the NSF Office of Inspector General (OIG) if it initiates a research misconduct investigation involving NSF-funded research. Upon completion of an investigation involving NSF-funded research, Diné College will send a copy of the final investigation report to the NSF OIG.

**E. Annual Report on Possible Research Misconduct (Form PHS-6349)** Diné College, as an institution receiving U.S. Department of Health & Human Services (HHS) research funding, is required to submit an Annual Report on Possible Research Misconduct (Form PHS-6349) to the Office of Research Integrity (ORI) each year between January 1st and April 30th, with a due date of April 30th. This report will include the name and contact information of the institutional official responsible for filing, and statistical data on the number of allegations received, broken down into fabrication, falsification, or plagiarism. An electronic copy of Diné College's current research misconduct policy document may be uploaded with the annual report.

**X. Record Retention** The RIO must maintain and provide to ORI upon request "records of research misconduct proceedings" as that term is defined by 42 CFR § 93.317. Unless custody has been transferred to HHS or ORI has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for 7 years after completion of the proceeding or the completion of any PHS proceeding involving the research misconduct allegation.

*Revised June 24, 2025*