

**NATIONAL INSTITUTE OF FOOD AND AGRICULTURE,
UNITED STATES DEPARTMENT OF AGRICULTURE**

Agency Implementation Procedures for RESEARCH MISCONDUCT

BACKGROUND:

On December 6, 2000, the Office of Science and Technology Policy (OSTP) published in the Federal Register (65 FR 76260) the final, government-wide policy addressing research misconduct to establish:

- 1) uniformity among the Federal agencies' definition of research misconduct, and
- 2) consistency in their processes for responding to allegations of research misconduct.

The Federal Policy on Research Misconduct, developed by the National Science and Technology Council, Office of Science and Technology Policy of the Executive Office of the President, defines research misconduct and establishes basic Federal guidelines for the conduct of fair and timely investigations of alleged research misconduct. This policy is to be implemented by all Federal agencies and applies to research conducted by Federal agencies, conducted or managed for the Federal government by contractors, or supported by the Federal government and performed at research institutions. To implement the Federal Policy, the Department of Agriculture (USDA) published a rule, Title 2 of the Code of Federal Regulations (CFR) Part 422, "Research Institutions Conducting USDA Funded Extramural Research; Research Misconduct," which sets forth procedures for research institutions that receive allegations of research misconduct involving USDA-funded extramural research.

The USDA developed these policies and procedures for agencies to implement the Department of Agriculture policy applicable to extramural research but also serves to address policy and procedures regarding the review process associated with applications requesting USDA funding of extramural research.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Table of Contents

Click Ctrl and Enter to go to Pertinent Section

| | |
|--|-----------|
| Applicability..... | 3 |
| Definitions | 3 |
| General Policy | 3 |
| USDA Agency Responsibilities | 3 |
| ARIO Responsibilities..... | 4 |
| Responsibilities of Reviewers of USDA Agency Funding Applications..... | 5 |
| Research Institution Responsibilities | 6 |
| Overview of Initial Handling of Misconduct Matters by USDA Agencies | 8 |
| Reliance on Funded Institution’s Policy and Procedures | 9 |
| Investigations..... | 11 |
| Right to Conduct Subsequent Inquiry, Investigation, and Adjudication..... | 12 |
| Pending Proposals and Awards | 13 |
| Interim Administrative Actions | 13 |
| Dispositions | 14 |
| Actions..... | 15 |
| Appeal Process for Agency Findings and/or Final Actions | 16 |
| Agency Records..... | 16 |

Applicability

This policy and procedures apply to:

- 1) Each institution or individual that applies for or receives USDA support, or any person who participates in the USDA peer review process.
- 2) Allegations of research misconduct involving USDA conducted or supported activities, including:
 - a) Applications for USDA support;
 - b) The review of applications for USDA support; and
 - c) USDA supported research activities.

Definitions

The definitions are listed in 2 CFR part 422.

General Policy

- 1) Research misconduct involving USDA support or the request for such support is contrary to the interests of USDA and the Federal government and to the health and safety of the public, to the integrity of research, and to the safeguard of public funds.
- 2) USDA and research institutions, that apply for, or receive, USDA agency support to advance knowledge for agriculture, the environment, human health and well-being, and communities, share responsibility for the integrity of the research process. USDA has ultimate oversight authority for USDA agency supported research and for taking other actions as appropriate or necessary, including the right to assess allegations and perform inquiries or investigations at any time. Research institutions and institutional members have an affirmative duty to protect USDA funds from misuse by ensuring the integrity of all USDA supported work, and primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of alleged research misconduct.

USDA Agency Responsibilities

Designation of ARIO: Each USDA Agency shall appoint an Agency Research Integrity Officer (ARIO) and publicize the ARIO contact information on the Office of the Chief Scientist website and on the USDA Agency website. For the National Institute of Food and Agriculture (NIFA), this information is found on the NIFA web site at <https://nifa.usda.gov/research-misconduct>.

Notice of Procedures: USDA agencies shall make these procedures available on the agency web site, include a link in the award terms and conditions to that agency web site, and make reasonable efforts to notify any and all interested parties and relevant stakeholders of the USDA agency procedures for handling allegations of research misconduct. Agencies are to effectively communicate to its staff the USDA agency research misconduct policies and procedures.

Reporting of Allegations: USDA agencies shall include an agency web site link in the award terms and conditions that will direct award recipients to the agency web site that contains the contact information of the OIG as well as information required when making an allegation of research misconduct. The current departmental link is: <https://www.usda.gov/our-agency/staff-offices/office-chief-scientist-ocs/scientific-integrity-and-research-misconduct>. The link for NIFA is: <https://nifa.usda.gov/research-misconduct>.

Reporting Research Misconduct: When an allegation of research misconduct is reported directly to an agency, the ARIO shall report the allegation to OIG and the USDA RIO. The USDA agency will provide all records, documents and other materials relating to a research misconduct allegation to OIG when requested. When responding to allegations of research misconduct the ARIO will provide status reports to the USDA RIO during each of the separate phases (i.e., inquiry, investigation, and adjudication) of its response to the allegation.

ARIO Responsibilities

The ARIO is responsible for the items noted under the definition of Agency Research Integrity Officer (ARIO) plus the items that follow.

Responsibilities for ARIOs as defined in 2 CFR 422.1:

- 1) Receiving and processing allegations of research misconduct as assigned by the USDA Research Integrity Officer (RIO);
- 2) Informing the USDA Office of Inspector General (OIG) and the USDA RIO, and the research institution associated with the alleged research misconduct, of allegations of research misconduct in the event it is reported to the USDA Agency;
- 3) Ensuring that any records, documents and other materials relating to a research misconduct allegation are provided to OIG when requested;
- 4) Coordinating actions taken to address allegations of research misconduct with respect to extramural research with the research institution(s) at which the research misconduct is alleged to have occurred, and with the USDA RIO;
- 5) Overseeing proceedings to address allegations of extramurally funded research misconduct at intramural research institutions and research institutions where extramural research occurs;

6) Ensuring that agency action to address allegations of research misconduct at USDA agencies performing extramural research is performed at an organizational level that allows an independent, unbiased, and equitable process;

- 7) Immediately notifying OIG, the USDA RIO, and the applicable research institution if:
- a) public health or safety is at risk;
 - b) USDA's resources, reputation, or other interests need protecting;
 - c) research activities should be suspended;
 - d) federal action may be needed to protect the interest of a subject of the investigation or of others potentially affected;
 - e) a premature public disclosure of the inquiry into or investigation of the allegation may compromise the process;
 - f) the scientific community or the public should be informed; or
 - g) behavior that is or may be criminal in nature is discovered at any point during the inquiry, investigation, or adjudication phases of the research misconduct proceedings;
 - i) documenting the dismissal of the allegation, and ensuring that the name of the accused individual and/or institution is cleared if an allegation of research misconduct is dismissed at any point during the inquiry or investigation phase of the proceedings; and
 - ii) other duties relating to research misconduct proceedings as assigned.

Additional responsibilities:

- 1) Ensuring that the USDA agency complies with its implementation procedures and processes allegations of research misconduct promptly and fairly; and
- 2) Referring allegations assigned to the agency that do not involve agency jurisdiction back to the USDA RIO for reassignment.

Responsibilities of Reviewers of USDA Agency Funding Applications

Reviewers must comply with the USDA agency conflict-of-interest and confidentiality guidelines. A reviewer's appropriation of ideas, processes, results or words obtained from confidential material provided by another person without giving appropriate credit to that person constitutes plagiarism, and is therefore subject to these policies and procedures. In addition, any allegation of research misconduct (e.g., plagiarism, fabrication, and falsification) arising during the review of an application is to be reported to the ARIIO via the applicable program officer (e.g., National Program Leader).

Research Institution Responsibilities

Primary Responsibility: USDA and research institutions that conduct USDA-funded research are partners who share responsibility for the research process. The research institutions where the USDA-funded research is conducted will bear primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with their own institution.

Policy and Procedures: Research institutions conducting USDA-funded extramural research 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:

- 1) Appropriate separations of responsibilities for inquiry, investigation, and adjudication;
- 2) Objectivity;
- 3) Due process;
- 4) Whistleblower protection;
- 5) Confidentiality, to the extent possible; and
- 6) Timely resolution.

The research institutions are to maintain and effectively communicate to their staffs such policy and procedures, including these guidelines. Researchers and staff members conducting USDA-funded extramural research should also be informed as to when and under what circumstances USDA is to be notified of allegations of research misconduct, and when and under what circumstances USDA is to be updated on research misconduct proceedings.

Reporting Allegations: All research institutions shall promptly report all allegations of research misconduct involving USDA-funded projects to the OIG Hotline and the USDA RIO when the institution's inquiry into USDA allegation warrants the institution moving on to an investigation.

The methods for contacting the OIG Hotline and the USDA RIO are listed on the departmental web site at <https://www.usda.gov/our-agency/staff-offices/office-chief-scientist-ocs/scientific-integrity-and-research-misconduct> and the NIFA agency web site at <https://nifa.usda.gov/research-misconduct>.

Inquiry, Investigation, and Adjudication: An inquiry by a research institution conducting extramural research shall be performed in response to an allegation, which, if true, would be research misconduct and has sufficient substance, specificity and credibility. An investigation shall be undertaken if the inquiry determines 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 agencies will rely on a research institution conducting extramural research to promptly:

- 1) Initiate an inquiry into any suspected or alleged research misconduct;
- 2) Conduct a subsequent investigation, if warranted;
- 3) Acquire, prepare, and maintain appropriate records of allegations of extramural research misconduct and all related inquiries, investigations, and findings; and
- 4) Take action necessary to ensure the following:
 - a) the integrity of research and the research record;
 - b) the rights and interests of research subjects and the public;
 - c) the observance of legal requirements or responsibilities including cooperation with criminal investigations; and
 - d) appropriate safeguards for subjects of allegations as well as informants.

USDA Agency Notification: Institutions must promptly notify the ARIO should the institution become aware during an inquiry or investigation that:

- 1) Public health or safety is at risk;
- 2) USDA's resources, reputation, or other interests need protecting;
- 3) Research activities should be suspended;
- 4) Federal action may be needed to protect the interest of a subject of the investigation or of others potentially affected;
- 5) A premature public disclosure of the inquiry into or investigation of the allegation may compromise the process;
- 6) The scientific community or the public should be informed; or
- 7) There is reasonable indication of possible violations of civil or criminal law. If research misconduct proceedings reveal behavior that may be criminal in nature at any point during the proceedings, the institution must promptly notify the ARIO.

Records and Documentation: A research institution conducting USDA-funded research must maintain the following documents related to an allegation of research misconduct at the research institution for at least three (3) years following the final adjudication of the alleged research misconduct by USDA:

- 1) Written statement describing the original allegation;
- 2) Formal notification to the subject of the allegation;
- 3) Written report describing the inquiry stage and its outcome including copies of all supporting documentation;
- 4) A description of the methods and procedures used to gather and evaluate information pertinent to the alleged misconduct during inquiry and investigation stages;
- 5) A written report of the investigation, including the evidentiary record, supporting documentation, and, if applicable, respondent's rebuttal and committee response;
- 6) A written statement of the findings; and
- 7) If applicable, statement of recommended corrective actions and any response thereto, including any corrective action plan.

Reporting to USDA Agencies: The institution must provide the USDA agency with the written outcome of the inquiry stage. Following completion of an investigation, the institution conducting extramural research must provide a copy of the evidentiary record,

the report of the investigation, recommendations made to the institution's adjudicating official, the adjudicating official's determination, the institution's corrective action taken or planned, and the written response of the individual that is the subject of the allegation to any recommendations. This information must be provided to the ARIO.

Recordkeeping: The research institution that conducts the USDA-supported research has a continuing obligation to create and maintain adequate records, including documents and other evidentiary matter, as may be required by any subsequent inquiry, investigation, finding, adjudication, or other proceedings (2 CFR 422.11).

The research institution must:

1) Either before or immediately after the research institution notifies the researcher/respondent of the allegation, promptly take all reasonable and practical steps to obtain custody of all the relevant research records and evidence as may be necessary to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner, except where the research records or evidence 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 to the data or records when the data or records reside on the instruments or devices of the instruments;

2) Where appropriate, give the researcher/respondent copies of, or reasonable, supervised access to the research records; and

3) Undertake all reasonable and practical efforts to take custody of additional research records or evidence that is discovered during the course of a research misconduct proceeding, 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.

Overview of Initial Handling of Misconduct Matters by USDA Agencies

The complainant(s) or institution reports a formal allegation to OIG. The identity of complainant who wish to remain anonymous will be kept confidential to the extent permitted by law or regulation.

OIG provides necessary information to USDA RIO who assigns allegations of research misconduct to an USDA agency as appropriate. The assigned agency may:

- 1) Delegate responsibility for inquiries or investigations to the institution that employs the respondent or to another federal agency if multiple agency funds are associated with the project in question (joint jurisdiction); or
- 2) At any time proceed with its own inquiry and/or investigation.

Based on the inquiry and consultation within the USDA agency, or with others as appropriate, the agency may decide whether a formal USDA-conducted, or institution-conducted, investigation is warranted. An investigation need only be undertaken if the inquiry determines the allegation or apparent instance of research misconduct has substance.

Based on evaluation of the investigation report, the ARIO, or delegated USDA-representative, will make a recommendation to the Agency Deciding Official (Associate Director for Programs at NIFA) as to the appropriate USDA action(s).

The Agency Deciding Official (Associate Director for Programs at NIFA) for the agency will review the documentation, recommendation and make an adjudication regarding the final USDA action(s) either to make a federal finding of research misconduct, accept the report without a federal finding, and/or to refer for additional action.

Before the USDA agency makes any final federal finding of research misconduct or takes any final action on such a finding, the agency will normally afford the respondent or institution notice of the finding with an opportunity to respond and/or to appeal. In structuring procedures in individual cases, the USDA may take into account procedures already followed by other entities investigating or adjudicating the same allegation of research misconduct.

After adjudication and appeal, USDA agencies will take appropriate action against individuals or institutions upon a finding that research misconduct has occurred (see **Actions** section).

Reliance on Funded Institution's Policy and Procedures

Before the USDA will rely on a research institution to conduct an inquiry, investigation, and adjudication of an allegation of research misconduct, a USDA panel (comprised of the USDA RIO and RIOs from the Forest Service, Agricultural Research Service, and the National Institute of Food and Agriculture) will review the research institution's policy and procedures for compliance with the OSTP Policy and USDA's implementation thereof. The panel will collectively render a decision regarding the particular research institution's ability to adequately resolve research misconduct allegations. The ARIO will inform the research institution of the Panel's decision about whether NIFA will rely on the research institution to conduct the inquiry, investigation, and adjudication.

If the Panel determines the research institution in question does not have adequate policy and procedures in place to conduct inquiry, investigation, and adjudication proceedings, or that the particular research institution is in any way unfit or unprepared to handle the inquiry, investigation, or adjudication in a prompt, unbiased, fair, and independent manner, the ARIO shall inform the research institution at issue in writing of the Panel's

decision. An appropriate USDA Agency, as determined by the Panel, shall then conduct the inquiry, investigation, and adjudication of the allegation of research misconduct.

In the specific instance where 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. However, 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.

Investigations

When a research institution or another Federal agency has promptly initiated its own investigation, the USDA agency may defer its inquiry or investigation until it receives the results of that external inquiry or investigation. The USDA may proceed with its own inquiry or investigation if the USDA agency does not receive the results within 180 days.

If the USDA initiates its own investigation, it must give prompt written notice to the individual or institutions to be investigated, unless notice would prejudice the investigation or unless a criminal investigation is underway or under active consideration. If notice is delayed, it must be given as soon as it will no longer prejudice the investigation or contravene requirements of law or Federal law enforcement policies.

If a criminal investigation by the Department of Justice, the Federal Bureau of Investigation, or another Federal agency is underway or under active consideration by these agencies or USDA, the USDA agency will determine what information, if any, may be disclosed to the subject of the investigation or to other USDA agency employees.

A USDA agency investigation may include, but is not limited to:

- 1) Review of award files, reports, and other documents already readily available at USDA agencies or in the public domain;
- 2) Review of research procedures or methods and inspection of laboratory materials, specimens, and records at research institutions;
- 3) Interviews with subjects or witnesses;
- 4) Review of any documents or other evidence provided by or properly obtainable from parties, witnesses, or other sources;
- 5) Cooperation with other Federal agencies; and
- 6) Opportunity for the subject of the investigation to be heard.

The USDA agency may invite outside consultants or experts to participate in a USDA investigation. They should be appointed in a manner that ensures the official nature of their involvement and provides them with legal protections available to Federal employees.

The USDA will make every reasonable effort to complete a USDA agency investigation and to report its recommendations, if any, to the Agency Deciding Official (Associate Director for Programs at NIFA) within 180 days of initiation.

Right to Conduct Subsequent Inquiry, Investigation, and Adjudication

The 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 research institution's proceedings related to the same allegation. If the USDA RIO or ARIO for the USDA agency believes, in his or her sound discretion, that despite the USDA 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;
- 3) Did not complete the inquiry, investigation, or adjudication in a timely manner; or
- 4) For any other reason it may be appropriate for USDA to conduct research misconduct proceedings in lieu of the research institution conducting the extramural research at issue.

The USDA Panel shall reconvene to determine whether it is appropriate for the USDA agency to conduct the research misconduct proceedings related to the allegation(s) of research misconduct. If the USDA Panel determines that it is appropriate for the USDA agency to conduct the proceedings, the ARIO will immediately notify the research institution in question. The research institution must then immediately provide the 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 USDA research misconduct procedures below:

- 1) The USDA ARIO will convene an inquiry and/or investigation team.
- 2) Initiate and complete an inquiry into any suspected or alleged research misconduct within 90 calendar days and submit Inquiry Report to the Agency Deciding Official (Associate Director for Programs at NIFA).
- 3) Conduct a subsequent investigation, if warranted, within 180 days and submit Investigation Report to the Agency Deciding Official (Associate Director for Programs at NIFA);
- 4) Acquire, prepare, and maintain appropriate records of allegations of extramural research misconduct and all related inquiries, investigations, and findings; and
- 5) Take action necessary to ensure the following:
 - a) the integrity of research;
 - b) the rights and interests of research subjects and the public;
 - c) the observance of legal requirements or responsibilities including cooperation with criminal investigations; and
 - d) appropriate safeguards for subjects of allegations as well as informants.

Pending Proposals and Awards

Upon learning of alleged research misconduct USDA agencies will identify potentially implicated awards or proposals and when appropriate, will ensure that program and award officers handling them are informed accordingly.

Neither a suspicion or allegation of research misconduct nor a pending inquiry or investigation will normally delay review of proposals. To avoid influencing reviews, reviewers or panelists will not be informed of allegations or of ongoing inquiries or investigations. However, if allegations, inquiries, or investigations have been rumored or publicized, the responsible program officer (e.g., National Program Leader) may consult with the ARIO and, after further consultation with the OIG, either defer review or inform reviewers to disregard the matter.

USDA agencies may take interim administrative actions, as appropriate.

Interim Administrative Actions

After an allegation, inquiry or during an external or USDA investigation the ARIO or Deputy Director of the Office of Grants and Financial Management (OGFM) may take interim actions to protect Federal resources or to guard against continuation of any suspected or alleged research misconduct.

Interim actions may include, but are not limited to:

- 1) Totally or partially suspending an existing award;
- 2) Suspending eligibility for Federal awards in accordance with debarment and suspension regulations;
- 3) Proscribing or restricting particular research activities;
- 4) Requiring prior approvals by USDA agencies of particular research activities;
 - a) deferring a pending award action; and/or
 - b) restricting or suspending participation as a USDA reviewer, advisor, or consultant.
- 5) Such interim actions may be taken whenever information developed during an investigation indicates a need to do so. Any interim action will be reviewed periodically by USDA agencies and modified as warranted.
- 6) The ARIO or OGFM will make and ARIO will retain a record of interim actions taken and the reasons for taking them.
- 7) Interim administrative actions are not final agency actions subject to appeal.

Dispositions

After receiving a report from an external investigation by an awardee institution or another Federal agency, the ARIO will assess the accuracy and completeness of the report and whether the investigating entity followed reasonable procedures. It will either recommend adoption of the findings in whole or in part or, normally within 30 days, initiate a new investigation.

When any satisfactory external investigation or an USDA investigation fails to confirm alleged misconduct—

1) For USDA-led investigations or when appropriate, USDA will notify the subject of the investigation and, if appropriate, those who reported the suspected or alleged misconduct. This notification may include the investigation report.

2) Any interim administrative restrictions that were imposed will be lifted.

3) When any satisfactory investigation confirms misconduct—

a) In cases in which debarment is considered by USDA to be an appropriate disposition, the

case will be referred to the debarring official pursuant to USDA Departmental Regulation

2280-001 will be followed, but:

i) The debarring official will be either the Agency Deciding Official, or an official designated by the Agency.

ii) Except in unusual circumstances, the investigation report and recommended disposition will be included among the materials provided to the subject of the investigation as part of the notice of proposed debarment.

iii) The notice of the debarring official's decision will include instructions on how to pursue an appeal to the Chief Scientist.

b) In all other cases—

i) Except in unusual circumstances, the investigation report will be provided by the institution or USDA to the subject of the investigation, who will be invited to submit comments or rebuttal. Comments or rebuttal submitted within the period allowed, normally 30 days, will receive full consideration and may lead to revision of the report or of a recommended disposition.

ii) Normally within 45 days after completing an USDA investigation or receiving the report from a satisfactory external investigation, the ARIO will submit to the Agency Deciding Official the investigation report, any comments or rebuttal from the subject of the investigation, and a recommended disposition.

iii) External investigations will also have the findings (whether research misconduct was found and if so, who committed the misconduct), the final institutional action (acceptance/rejection of investigation by institution), and institutional administrative actions (any pending or completed administrative actions against the respondent). The recommended disposition will propose any final actions to be taken by USDA. 2 CFR 422.12. The Action Section, lists possible final actions and considerations to be used in determining them.

- iv) The Agency Deciding Official will review the investigation report and the ARIO's recommended disposition. Before issuing a disposition, the Agency Deciding Official may initiate further hearings or investigation. Normally within 120 days after receiving the ARIO's recommendations or after completion of any further proceedings, the Agency Deciding Official will send the affected individual or institution a written disposition, specifying actions to be taken. The decision will include instructions on how to pursue an appeal to the Chief Scientist.

Actions

Possible federal final actions listed as guidance range from minimal restrictions (Level 1) to the most severe and restrictive (Level 3). The actions are not exhaustive and do not include possible criminal sanctions.

- 1) Level 1 actions.
 - a) Send a letter of reprimand to the individual or institution.
 - b) Require as a condition of an award that for a specified period an individual or institution obtain special prior approval of particular activities from USDA.
 - c) Require for a specified period that institutional officials other than those guilty of misconduct certify the accuracy of reports generated under an award or provide assurance of compliance with particular policies, regulations, guidelines, or special terms and conditions.
- 2) Level 2 actions.
 - a) Totally or partially suspend an active award, or restrict for a specified period, designated activities or expenditures under an active award.
 - b) Require for a specified period special reviews of all requests for funding from an affected individual or institution to ensure that steps have been taken to prevent repetition of misconduct.
 - c) Require a correction to the research record.
 - d) Recover all or a portion of award funds.
- 3) Level 3 actions.
 - a) Terminate an active award.
 - b) Prohibit participation of an individual as a NIFA reviewer, advisor or consultant for a specified period.
 - c) Debar or suspend an individual or institution from participation in Federal programs for a specified period after further proceedings under applicable regulations.
 - d) Recover all or a portion of award funds.
- 4) In deciding what final actions are appropriate when research misconduct is found, NIFA officials should consider:
 - a) The seriousness of the misconduct;
 - b) The degree to which the misconduct was knowingly, intentional or reckless;
 - c) Whether it was an isolated event or part of a pattern;

- d) Whether it had a significant impact on the research record, research subjects, other researchers, institutions or the public welfare;
- e) Implication of a government employee (NIFA must comply with all relevant Federal personnel policies and laws); and
- f) Other relevant circumstances.

Appeal Process for Agency Findings and/or Final Actions

An affected individual or institution may appeal to the Chief Scientist in writing within 30 days after receiving the Agency Deciding Official's written decision. The Agency Deciding Official's decision becomes a final administrative action if it is not appealed within the 30 day period.

The Chief Scientist may appoint an uninvolved USDA officer or employee to review an appeal and make recommendations.

The Chief Scientist will normally inform the appellant of a final decision within 60 days after receiving the appeal. That decision will be the final administrative action of the Department.

Agency Records

Records maintained by the agency during the course of responding to an allegation of research misconduct (i.e., inquiry, investigation, and adjudication process) will be kept confidential to the extent permitted by law or regulation. Disposition of records should follow the agency's Records Disposition Authority.