Model Scientific Integrity Policy for Agencies, Universities, and Other Research Institutions

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the Climate Science
Legal Defense Fund

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Introduction

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For decades, the United States has taken pride in being a world leader in science and technology. We have relied on trusted scientific agencies and universities to develop, implement, and analyze rigorously conducted studies that protect us from harmful pollutants, or lead to the development of treatments for dangerous diseases or the invention of important new technologies. The best scientists and engineers from around the world compete to study and teach at our top-tier research universities.

The credibility and reliability of the science that is done at these institutions is absolutely essential to maintaining this standing. If a government scientific agency issues a new regulation, law-makers and the public must have confidence that it is based on sound, accurate science and not driven instead by political considerations or cultural biases. Similarly, if a university or state-run lab puts out a study, participants in the relevant field must believe that it is objective and well-run in order for it to be useful.

Unfortunately, events in recent years have shown how quickly the credibility and reputations of these institutions can deteriorate when political concerns influence or interfere with their work. We have seen federal agencies such as the Environmental Protection Agency and the Department of the Interior do almost complete about-faces on attempts to study and address climate change, with research abruptly halted, websites rapidly taken down, and scientists prevented from publicly communicating about their work. As Hurricane Dorian approached the U.S. mainland in early fall 2019, we saw the National Oceanic and Atmospheric Administration release an unsigned, false statement supporting President Trump's mistaken assertion that Alabama was in the hurricane's projected path. Tragically, in recent months we have seen how the resistance of political leadership within the federal government to facing the politically inconvenient reality of the COVID-19 pandemic resulted in the muzzling of scientists at the Centers for Disease Control and Prevention, the hampering of state and university labs' development and production of tests for the disease, the promotion of unproven treatments for the disease, and the provision of false reassurances to the public. This subordination of science to political concerns appears to have squandered whatever opportunity there may have been to mitigate the course of the pandemic, at considerable cost in human lives and economic well-being.

This is why protecting scientific integrity is more pressing now than perhaps ever before. For some years now, the prominent federal scientific agencies have had scientific integrity policies. Unfortunately, these policies are often difficult to navigate and, in many instances, they fail to adequately address fundamental issues such as political interference and censorship.[1] Moreover, agency policies often do not provide a very clear or workable

[1] *See* Gretchen T. Goldman *et al.*, *Perceived Losses of Scientific Integrity Under the Trump Administration: A Survey of Federal Scientists*, PLoS One (Apr. 2020), https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0231929. *See also* Union of Concerned Scientists, *A Roadmap for Science in Decisionmaking* (Aug. 2020), https://www.ucsusa.org/resources/roadmap-science-decisionmaking.

framework for the process of filing, evaluating, investigating, and resolving complaints regarding loss of scientific integrity. Perhaps even more alarming, research universities generally do not have policies in place that address these issues at all. Nor do most state agencies involved in scientific endeavors.

It is in hopes of remedying these shortcomings that we have developed this model language for a scientific integrity policy. Where appropriate, we have cited to the existing policy or policies that provide the basis for the specific language.

It is our hope that decision-makers at institutions ranging from federal and state agencies to universities will find this model language useful and will adopt it as operative policy for their organizations.

This guide is not a substitute for legal advice. If you are a scientist facing a scientific integrity issue, please contact CSLDF or another attorney for help.

Contact CSLDF at
(646) 801-0853

Or send an email to
lawyer@csldf.org

1 Purpose

In order for [institution] to fulfill its mission, it is essential that there be widespread confidence—on the part of scientists, policy-makers, the courts, and the general public—in the quality, validity, and reliability of [institution's] science.[2] It is likewise essential that science be the backbone of [institution] decision-making on any matter with a scientific component; the policies, guidance, and regulations promulgated by [institution] must be grounded at the most fundamental level in sound science.[3]

This requires [institution] to create and maintain a robust culture of scientific integrity. To this end, [institution] has established this scientific integrity policy. The purpose of this policy is to delineate the responsibilities of [institution's] employees to conduct, utilize, and communicate science with honesty, integrity, and transparency in dealings both inside and outside the institution.[4] This policy also serves to emphasize that it is essential that [institution] decision-makers do not suppress or alter scientific work or findings for non-science-based reasons, and that they do not prevent researchers from pursuing legitimate lines of scientific inquiry for illegitimate reasons.[5] Finally, this policy provides a framework for the intake, investigation, and resolution of allegations that there has been a loss of scientific integrity.

2 Scope

This policy and its requirements apply to all [institution] employees and supervisory officials, including political appointees and outside parties who assist in developing or applying the results of [institution] scientific activities, when they:

1. Engage in, supervise, manage, or influence scientific activities;
2. Publicly communicate information about [institution's] scientific activities; or
3. Utilize scientific information in making [institutional] policy, management, or regulatory decisions.

The term "outside parties" includes contractors, cooperators, partners, permittees, lessees, grantees, fellows, Federal or State Advisory Committee members, interns, students, volunteers, groups, organizations, or individuals who provide goods or services to [institution] with or without compensation.

The above individuals or groups will be considered "covered persons" under this policy.[6]

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2 National Oceanic and Atmospheric Administration, Administrative Order 202-735D on Scientific Integrity, § 1.01 [hereinafter "NOAA SIP"].
3 Environmental Protection Agency, Scientific Integrity Policy, § II ([hereinafter "EPA SIP"].
4 *Id.*
5 *Id.*
6 *Id.* § III.

3 Definition of Scientific Integrity

Scientific integrity is the condition that exists when scientific research and publication of the results thereof adheres to the accepted standards, conduct, and professional values of the relevant scientific community.[7]

Adherence to these standards is designed, insofar as possible, to ensure objectivity, clarity, reproducibility, and utility of scientific and scholarly activities and assessments and to prevent bias, fabrication, falsification, plagiarism, outside interference, censorship, and inadequate procedural and information security.[8]

Violation of any of the provisions in Section 4 below will be considered a loss of scientific integrity, and may result in disciplinary measures being imposed on the person or persons responsible.

4 Violations of Scientific Integrity

A. Research Misconduct

Covered persons may not commit research misconduct. Research misconduct includes:[9]

1. Fabrication, falsification, or plagiarism in proposing, performing, or reviewing scientific activities, or in the products or reporting of the results of these activities.

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

B. Conflicts of Interest

Covered persons will not knowingly participate in a scientific activity that causes a personal or financial conflict of interest for themselves or others.[10] In the event that a covered person becomes aware that a conflict of interest exists with respect to a scientific activity, they will promptly disclose it to the relevant ethics office.

A personal conflict of interest exists if an individual has a personal relationship or conducts a personal activity that could impair the individual's ability to act impartially or objectively; could create an unfair competitive advantage for any person or organization; or could create an appearance of any of the preceding. A *de minimis*

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[7] Department of the Interior, Departmental Manual Pt. 305, Chpt.3, Integrity of Scientific and Scholarly Activities, § 3.5 (A) [hereinafter "DOI SIP"].

[8] *Id. See also* Rashida Nek & Anita R. Eisenstadt, *Review of Federal Agency Policies on Scientific Integrity*, Institute for Defense Analyses, Science & Technology Institute 11 (Dec. 2016), https://www.ida.org/-/media/feature/publications/r/re/review-of-federal-agency-policies-on-scientific-integrity/d-8305.ashx (describing how other agencies have adopted some core parts of DOI's definition).

[9] Office of Research Integrity, Definition of Research Misconduct, https://ori.hhs.gov/definition-misconduct

[10] *See* DOI SIP §3.7(A)(5).

interest that would not impair the individual's ability to act impartially or objectively is not covered under this definition.[11]

A financial conflict of interest exists if a project or assignment or other activity carried out in the course of an individual's work duties will materially affect their financial interests, the financial interests of their spouse or other close family member(s), or the financial interests of their general business partner, an organization for which they serve as an officer, director, employee, general partner, or trustee, or someone with whom they have an arrangement for employment or with whom they are negotiating for employment.[12] Covered persons will disclose outside funders of scientific work, and will also disclose all personal and financial conflicts of interest.[13]

C. Freedom from Political Interference

Scientists and others at [institution] whose work involves scientific findings must be able to conduct their work free from political influence or interference for political reasons. Covered persons will not engage in censorship or manipulation or attempted censorship or manipulation of a scientist, or of a scientist's work. Under no circumstances will a covered person alter or attempt to alter scientific findings or scientific work, or ask or direct a scientist to alter scientific findings or scientific work, for political reasons or for any other reason not directly related to the scientific accuracy of the work.

Freedom from political interference must also extend to the handling of funding, including grants and gifts.[14] Covered persons will not direct or limit, or attempt to direct or limit, for political reasons or for any other reason not directly related to the scientific validity of the work, the research for which scientists can seek grant funding. Covered persons will likewise not interfere, or attempt to interfere, for political reasons, with the disbursement of grant funds that have been awarded to an [institution] scientist.

Finally, freedom from political interference must similarly mean that [institution] will not allow gifts, or philanthropic grants or pledges from outside special interests to influence what science is done at [institution], how [institution] conducts its hiring or firing for scientific positions, or who is placed in management or administrative positions that impact science at [institution]. With respect to any gift, philanthropic grant, or pledge that does not go to the general fund or university endowment ("restricted gift"), [institution] will place ultimate decision-making authority for accepting or rejecting such restricted gift in the hands of the faculty.[15] [Institution] will also reject any restricted

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[11] NOAA SIP § 3; *see also* Federal Acquisition Regulation, General Services Administration, Department of Defense & NOAA (2019) § 3.1101(a)(2), https://www.acquisition.gov/sites/default/files/current/far/pdf/FAR.pdf

[12] *See*, e.g., University of California Berkeley, Policy on Research Conflict of Interest, https://compliance.berkeley.edu/conflict-of-interest/research. *See also* Claudia Polsky, *Open Records, Shuttered Labs: Ending Political Harassment of Public University* Researchers, 6 U.C.L.A. L. Rev. 208, 286-91 (2018).

[13] *See*, e.g., University of California Berkeley, Policy on Research Conflict of Interest, https://compliance.berkeley.edu/conflict-of-interest/research. *See also* Claudia Polsky, *Open Records, Shuttered Labs: Ending Political Harassment of Public University Researchers*, 6 U.C.L.A. L. Rev. 208, 286-91 (2018).

[14] These paragraphs relating to gifts and similar philanthropic pledges will likely be most relevant where the institution adopting the policy is a university.

[15] UnKoch My Campus, Institutional Conflicts of Interest in Academia, Model Policies to Protect Against Donor Interference (2018) at 9, https://static1.squarespace.com/static/5400da69e4b0cb1fd47c9077/t/5c0f4968032be447e437a07c/1544505706246/Model+Policy+Final.pdf.

gift that gives any outside interest undue influence over scientific research, hiring for scientific positions, or scientific programming or curricula.[16]

D. Freedom from Threats and Intimidation

Scientists must be able to conduct their work free from threats or attempts at intimidation. Covered persons will not threaten, intimidate, or coerce, or attempt to threaten, intimidate, or coerce any scientist to alter or censor scientific findings, or to reach preordained conclusions.[17]

E. Science-Based Decision-Making

All covered persons will consider the best available science when making policy and regulatory decisions.[18] This includes using scientific information derived from well-established scientific processes; ensuring that the studies or models used to support policy or regulatory decisions—whether they are generated within [institution] or externally—undergo independent peer review where appropriate; ensuring that scientific information used for policy or regulatory decisions is reflected accurately; and making the scientific findings or conclusions considered or relied on in policy or regulatory decisions available online and in open formats.[19]

F. Freedom to Communicate About Research

It is both the right and the responsibility of [institution] scientists and their managers to provide timely information about their scientific activities as well as their technical or professional opinions to the media, the public, and the scientific community. Covered persons may freely speak to the media, the public, and the scientific community about scientific and technical matters based on their expertise and official work. They do not need prior approval to do so.[20]

Moreover, [institution] scientists have an affirmative obligation to be available to, and must be allowed to, answer inquiries from the news media regarding their scientific work. If an [institution] scientist is unwilling or unable to communicate directly with the news media, the scientist should still provide timely assistance to the appropriate institutional office to prepare and approve full and accurate responses to media inquiries.[21]

The freedom of expression protected by this provision does not obviate other applicable rules or protections regarding confidentiality, unfinished scientific work product, classified or privileged information, or trade secrets.

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16 *Id*. at 9.
17 NOAA SIP § 7.01 & 7.02.
18 EPA SIP § IV(A)(1)(c).
19 U.S. Department of Agriculture, Departmental Regulation 1074-001, Scientific Integrity, § 6(c)(4).
20 NOAA SIP § 4.05.
21 EPA SIP § B(1)(d).

G. Freedom to Make Public Statements of Opinion

Covered persons are entitled to free exercise of their right to publicly express their personal views and opinions as private citizens. When doing so, they should make clear that they are not speaking on behalf of or as a representative of [institution], but rather in their private capacity, and that the opinions they express are not necessarily those of [institution].[22]

When expressing a personal view or opinion as a private citizen, covered persons may include their [institutional] title or position when such information is given to identify them, as a biographical detail that is not given more prominence than other significant biographical details.[23]

Covered persons are specifically entitled to express their personal views and opinions via social media and other online fora such as blogs, provided they do so using personal accounts. Covered persons should take care that personal use of social media or other online fora does not create the appearance of official use or create the appearance that the [institution] endorses the views expressed.[24]

The freedom of expression protected by this provision does not obviate other applicable rules regarding classified or privileged information, or trade secrets.

H. Freedom to Provide Information to Lawmakers

Covered persons will not interfere with or deny the right of scientists to furnish information to any local, state, or federal legislative body, including either house of Congress, or to committees or members of any such body.[25]

The freedom of expression protected by this provision does not obviate other applicable rules regarding classified or privileged information, trade secrets, or the right to furnish information to other investigatory bodies such as Attorneys General.

I. Classified Information

Covered persons are prohibited from using the fact that certain information has been classified as a means of suppressing other scientific results or information that is properly made public. At the same time, this policy acknowledges that information that may affect national security must remain classified.[26]

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22 EPA SIP § B(1)(b).

23 Ethics Guide for DOI Employees 16 (2017), https://www.doi.gov/sites/doi.gov/files/uploads/ethics_pocket_guide_for_doi_employees_2017.pdf

24 DOI Departmental Manual Pt. 470, Chpt. 2, Digital Media Policy § 2.7 (2018).

25 5 U.S.C. § 7211.

26 Department of Energy, Order 411.2, Scientific Integrity, § 4(g)(3).

J. Appropriate Attribution of Contributions to Research

Covered persons who are the responsible author(s) of any scientific research or communication must ensure that the approval of all listed authors or contributors is obtained; that all contributions to the work are appropriately acknowledged in a manner conforming to accepted standards of the relevant discipline(s) and publication(s); that they have exercised due diligence in ensuring that all issues related to intellectual property and related matters have been resolved; and that they understand relevant terms and conditions for publication, including copyright.[27]

K. Right of Scientists to Review and Correct Institutional Communications

[Institution] scientists have the right to review, correct, and approve the scientific content of any proposed [institution] document intended for public dissemination that significantly relies on their research, identifies them as an author, or represents their scientific opinion.[28]

L. Right of Scientists to Participate in Professional Development Activities

The professional development and stature of [institution] scientists is important for ensuring widespread public trust and confidence in [institution] science, and is therefore a fundamental component of scientific integrity. [Institution] encourages its scientists to:[29]

1. Publish their work in peer-reviewed professional and scholarly journals and other appropriate outlets
2. Serve on editorial boards and on scientific and technological expert review panels
3. Participate in peer review

Independent peer review of [institutional] science is a crucial aspect of scientific integrity.[30] Scientific studies used to support regulatory and other policy decisions made by [institution] and/or produced by or done on behalf of [institution] must undergo appropriate levels of independent review. This strengthens the actual and perceived credibility of [institution's] science.[31]

Scientists' ability to participate as peer reviewers is also an important part of their professional development and career advancement.[32] [Institution's] scientists are strongly encouraged to participate as peer reviewers both for internal agency projects and as external peer reviewers for academic or scientific journals.

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27 Government of Canada, Office of the Chief Science Advisor, Model Policy on Scientific Integrity, § 7.5.6, https://www.ic.gc.ca/eic/site/052.nsf/eng/00010.html [hereinafter "Canadian Model Policy"].

28 EPA SIP § B(1)(e).

29 NOAA SIP § 4.07.

30 EPA SIP § C.

31 *Id.* § A(2)(d).

32 *See generally* Kristen B. Pytynia, *Why Participate in Peer Review as a Journal Manuscript Reviewer: What's in It for You?*, Otolaryngology–Head And Neck Surgery (Sept. 2016), https://www.ncbi.nlm.nih.gov/pubmed/27677597.

M. Professional Conferences

Covered persons are strongly encouraged to participate in professional conferences and presentations, including by presenting papers or otherwise participating as speakers at such conferences or presentations.[33]

N. Professional and Scholarly Societies

Covered persons are encouraged to participate in professional or scholarly societies, committees, task forces, and other specialized bodies of professional societies, including serving as officers or on governing boards of such societies.[34]

O. Hiring Practices

[Institution] will select candidates for scientific positions based primarily on their scientific and technical knowledge, credentials, experience, and integrity.[35]

P. Use and Staffing of Federal Advisory Committees[36]

Federal Advisory Committees (FACs) are an important tool for ensuring the credibility and quality of [institution] science. To that end:[37]

In almost all cases, FACs should meet and deliberate in public, and materials prepared by or for a FAC should be available to the public.

Recruitment of new FAC members should be transparent and conducted through broadly available vacancy announcements, including publication in the federal register. The recruitment process should include an invitation for the public to recommend individuals for consideration and submit self-nominations.

Professional biographical information for appointed committee members, including current and past professional affiliations, should be made widely available to the public (e.g., on a website). Such information should clearly demonstrate an individual's qualifications for serving on a committee.

The selection of members to serve on a scientific or technical FAC should be based on knowledge, expertise, contribution to the relevant subject area, and consideration of conflicts of interest. All conflict of interest waivers granted to committee members should be fully disclosed and made widely publicly available (e.g., on a website).

All reports, recommendations, and other work product developed by FACs are solely controlled by such committees rather than by [institution], and are therefore not subject to revision by [institution].

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33 Centers for Disease Control, Guidance on Scientific Integrity, at 21 [hereinafter "CDC SIP"].

34 *Id.*

35 EPA SIP § A(2)(d); CDC SIP at 6.

36 This section on Federal Advisory Committees will likely only be relevant where the institution adopting the policy is a federal agency.

37 EPA SIP § C(2)(d); *see also* Federal Advisory Committee Act, Pub. L. 92-463 (1972).

5 Procedure for Handling Allegations of Loss of Scientific Integrity[38]

A. Evidentiary Standard

A finding that there has been a loss of scientific integrity requires that:[39]

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

B. Implementation

[Institution] will appoint a dedicated Scientific Integrity Official (SIO), who will be responsible for overseeing scientific integrity at [institution]. This official should be insulated from any political appointees. The SIO will be responsible for ensuring that alleged breaches of this policy are promptly and thoroughly reviewed and investigated.[40]

The SIO will communicate this policy to all [institution] employees, and will also ensure that outside parties[41] are informed of this policy. The SIO will also continue to develop additional procedures, policies, guidelines, tools, training, and professional development opportunities necessary to support this policy.[42]

Covered persons who believe a loss of scientific integrity has occurred should seek to resolve the issue in a fair and respectful manner, and are encouraged to consider informal methods of resolution such as dialogue or mediation. Where possible, [institution] employees are also encouraged to discuss and resolve these matters with an immediate supervisor. They can also seek informal advice and support from the office of the SIO and other appropriate sources within [institution].[43]

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[38] We have included specific procedural requirements, including time limitations, in this section of the model language because we believe that detailing such requirements is essential for a strong, useful, and well-implemented scientific integrity policy. In many cases we have drawn directly on existing policies in doing so. Of course, each individual institution may wish to adjust the specific timing requirements and other similar procedural elements in this section as appropriate.

[39] 42 U.S.C. § 93.104.

[40] Canadian Model Policy, § 7.2.2.3.

[41] As defined in Part 2, *supra.*

[42] Canadian Model Policy, § 7.1.

[43] *Id.* at § 7.2.2.1.

C. Filing a Complaint[44]

A complaint may be made pursuant to this policy by any individual, group, or organization that becomes aware of a suspected loss of scientific integrity.

The complaint should be submitted to: [the relevant Scientific Integrity Office, Dean of College, Dean of Research, or similar].[45]

The complaint must be in writing and must contain:

1. The name of the person(s) or organization alleged to have committed the scientific integrity violation, if known; and

2. A statement of facts (including dates, locations, and actions) that support the complaint, including when and how the complainant first learned of such facts.

Complaints may be submitted anonymously, but the complainant should understand that this may make effective assessment and investigation of the complaint more difficult. Alternatively, if desired, the name of the complainant can be kept confidential from the respondent to the extent possible.

D. Preliminary Assessment[46]

Upon receipt of a complaint, the [official responsible for conducting the investigation, referred to as the "deciding official"] shall promptly assess the information presented to determine whether it alleges a loss of scientific integrity as defined by this policy, and whether the allegation is sufficiently credible and specific on its face that it warrants further action. If both of these criteria are met, the inquiry phase begins.

In the event that the [deciding official] makes a preliminary assessment that the complaint does not sufficiently allege a loss of scientific integrity, the complainant may appeal by submitting a request to [the relevant Scientific Integrity Officer, Department Head or similar] within 15 days.

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[44] DOI SIP § 3.8.

[45] Note that complaints may also in some cases be submitted to the relevant Inspector General. However, Inspectors General are independent entities and have their own investigatory procedures.

[46] Stanford University, Research Policy Handbook § 1.7, 6(A) Research Misconduct: Policy on Allegations, Investigation, and Reporting [hereinafter "Stanford Research Misconduct Policy"], https://doresearch.stanford.edu/policies/research-policy-handbook/conduct-research/research-misconduct-policy-allegations-investigations-and-reporting. *See also* DOI Scientific Integrity Procedures Handbook § 3.6 (allowing for a similar panel to be convened).

E. Inquiry[47]

The inquiry phase consists of preliminary information-gathering and fact-finding to determine whether there is sufficient substance to the complaint or other evidence of a breach of scientific integrity to warrant a full-fledged investigation.

From the time the [deciding official] determines that further inquiry into the allegation is required, the [deciding official] has 30 days to appoint an inquiry panel. This panel will be composed of people within [institution] who (a) have appropriate scientific and technical knowledge to evaluate the allegations being made and assess relevant evidence; and (b) do not have unresolved personal or financial conflicts of interest with any of the parties. The panel must consist of at least one peer of the respondent [i.e. someone at a similar level of responsibility, or with similar status as faculty, administrator, or student if the institution is a university].

Members of the inquiry panel are required to disclose any actual or potential conflicts of interest prior to their appointment.

At the time of, or before the beginning of an inquiry, the accused individual(s) shall be informed of the allegations, and be afforded the opportunity to respond to them.

Relevant individuals, including the complainant(s), if known, may be interviewed during the inquiry phase.

The inquiry panel will prepare an inquiry report, which will include a recommendation as to whether or not a full investigation is warranted. Both the complainant(s) and the respondent(s) shall also be provided with a copy of the draft inquiry report and be given an opportunity to comment on the proposed findings for the consideration of those conducting the inquiry.

The inquiry panel will then prepare a final inquiry report. The final inquiry report is to be submitted to the [deciding official] within 60 days of formation of the inquiry panel. If this time frame is not possible in a particular case, the reasons are to be documented and the [deciding official] so informed. The final inquiry report shall include any comments provided by the parties in response to the draft report. The [deciding official] has 30 days from receipt of the report of the inquiry panel to decide whether to dismiss the complaint or order an investigation. Written notice of this action shall be provided to the respondent(s).

In the event that the [deciding official] dismisses the complaint, the complainant may appeal by submitting a request to [the relevant Scientific Integrity Officer, Department Head or similar] within 30 days.

[47] *See*, University of California Berkeley Policy on Research Misconduct, § 1(C)(3) [hereinafter "UC Berkeley Research Misconduct Policy"], https://vcresearch.berkeley.edu/research-policies/research-compliance/research-misconduct. *See also* Stanford Research Misconduct Policy § 6(B).

F. Investigation[48]

If an investigation is ordered, it shall begin within 30 days of its authorization by the [deciding official] and shall be completed and a final investigation report sent to the [deciding official] within 90 days from its commencement.

During the 30-day period between the authorization of an investigation and its commencement, [the deciding official] shall appoint an investigation panel chair (IPC). The IPC shall be an individual with relevant subject-matter expertise. The IPC will select the other members of the investigation panel, which shall be composed of persons within [institution] with appropriate scientific and technical knowledge to evaluate the allegations being made and assess relevant evidence. The panel must consist of at least one peer of the respondent [i.e. someone at a similar level of responsibility, or with similar status as faculty, administrator, or student if the institution is a university].

Members of the investigation panel are required to disclose any actual or potential conflicts of interest prior to their appointment.

An investigation should normally include an examination of the relevant documentation, including but not limited to relevant research data and proposals, publications, correspondence, notes and memoranda. Complainants, respondents, and witnesses who may have information related to the matter should be interviewed. Complete written summaries of each interview shall be provided to the individual being questioned, and any comments should be appended to the summary, or reflected in a revised summary if the interviewer agrees.

The parties must both be given an opportunity to provide written testimony, and the panel may request oral testimony from either or both parties. The participants in the proceeding do not have a right to cross-examine witnesses in the event oral testimony is elicited, but the panel may in its discretion permit such questioning. The panel shall afford the complainant(s) and the respondent(s) the opportunity to submit written questions, which the panel may, but is not required to, propound to parties or witnesses. Both parties have the right to be represented by a lawyer in providing written or oral testimony.

Once the panel has completed the investigation, it will develop an investigation report. The report must contain a recommendation for the [deciding official] to either 1) dismiss the allegation(s), or 2) determine that a loss of scientific integrity has occurred. In the case that the panel recommends a determination that a loss of scientific integrity has occurred, the report must include recommendations for specific actions to restore scientific integrity, as well as for any punitive action the panel believes appropriate.

A draft of the investigation report will be made available to both the complainant(s) and the respondent(s) with the opportunity to provide comments for the consideration of those conducting the investigation. Any comments on the draft from the parties shall be appended to the final report. The final investigation report, along with any comments, is then submitted to the [deciding official], who determines whether or not to implement the panel's

[48] *See* UC Berkeley Research Misconduct Policy § 1(C)(3), Stanford Research Misconduct Policy § 6(C)).

recommendations. If the [deciding official] declines to implement the panel's recommendations, he or she must detail in writing the reasons why.

The investigation must conclude within 120 days of the date it began unless the [deciding official] approves an extension.

Either party may appeal the result of the investigation by submitting a written request to the SIO within 30 days of receipt of the final report. The parties shall have access to an administrative process and administrative appeal for dispute resolution.[49]

G. Remedial and Disciplinary Action

If a violation of scientific integrity is found to have occurred, then the [deciding official] shall determine what if any remedial and/or disciplinary actions are appropriate.

Appropriate remedial and disciplinary actions may include:[50]

1. Removal from a particular research project;
2. Suspension or termination of an active research award;
3. Correction or retraction of published scientific work;
4. Correction or retraction of [institution] media releases pertaining to scientific work;
5. Release of inappropriately suppressed scientific materials;
6. Reversal of unfavorable job actions;
7. Monitoring or supervision of future [institution] scientific activities;
8. Required validation of data or sources;
9. Training and/or mentoring;
10. Demotion;
11. Suspension; or
12. Termination.

[49] *See* H.R. 1709 § 3(k)(1) (116th Congress, March 3, 2019), https://www.congress.gov/bill/116th-congress/house-bill/1709/text?.
[50] CDC SIP § 9(h)(1).

6 Rights of Complainants, Respondents, Witnesses & Other Participants

A. Confidentiality[51]

Great care shall be taken to preserve confidentiality throughout the reporting, assessment, and investigation of an allegation of loss of scientific integrity. [Institution] recognizes in particular the potential jeopardy to the reputation and rights of the parties, and will accordingly provide information only to those with a need to know. [Institution] will protect, to the best of its ability, the privacy of those who, in good faith, report allegations of research misconduct, of those who are the subject of such allegations, and of those who participate in inquiries or investigations into such allegations.

B. Protection Against Retaliation[52]

Retaliation of any kind against anyone who, acting in good faith, reports or provides information about suspected or alleged violation of this policy is prohibited. Retaliation of any kind against anyone who participates in good faith in any part of an investigatory process carried out pursuant to this policy is likewise prohibited. A covered person who engages in such retaliation may be subject to disciplinary action, up to and including termination.

C. Avoidance of Conflicts for Persons Conducting the Investigation[53]

Precautions should be taken to avoid unresolved personal, professional or financial conflicts of interest on the part of those involved in the inquiry or investigation.

7 Public Availability and Ongoing Performance Assessment

This policy, as well as any associated policies, directives, or guidelines, will be posted on [institution's] public website in a permission-less, downloadable form.[54]

Furthermore, [Institution] will, on a rolling basis, make publicly available (preferably on the [institution's] website in a searchable format) summaries of each allegation of a loss of scientific integrity, while taking the concerns about confidentiality identified above into consideration as appropriate. These summaries will also

[51] University of Michigan, Standard Practice Guide, Procedures for Investigating Allegations of Misconduct in the Pursuit of Scholarship and Research under SPG 303.3 § E(1), https://research-compliance.umich.edu/sites/default/files/resource-download/spg_303.03_procedures.pdf.

[52] *See* Harvard University Interim Policy and Procedures for Responding to Allegations of Research Misconduct § V(G), https://research.fas.harvard.edu/policies/procedures-responding-allegations-misconduct-research.

[53] *See* Columbia University Institutional Policy on Misconduct in Research, § K(2), https://research.fas.harvard.edu/policies/procedures-responding-allegations-misconduct-research.

[54] Canadian Model Policy, § 7.3.1.

describe how [institution] handled the situation, what conclusion was reached and why, and how the situation was resolved.

[Institution] will additionally develop and implement a plan for assessing the performance of this policy on an ongoing basis. At regular intervals [institution] will evaluate (a) the extent to which this policy has achieved its objectives; and (b) what future modifications of this policy and any associated policies, guidelines, or other instruments would be likely to improve this policy's performance.[55] At a minimum, this policy is to be reviewed every two years to ensure its effectiveness and adherence with applicable rules and regulations.[56]

Any plan developed and implemented pursuant to this provision should identify (a) the performance indicators that will be monitored; (b) how relevant information about these indicators will be collected, organized, and assessed; (c) how performance baselines will be characterized; and (d) how changes from those baselines will be quantified and evaluated.[57]

[55] *Id*. at § 7.9.1.
[56] EPA SIP § V(E).
[57] Canadian Model Policy §7.9.2.

This guide is not a substitute for legal advice. If you are a scientist facing a scientific integrity issue, please contact CSLDF or another attorney for help.

Contact CSLDF at	Or send an email to
(646) 801-0853	lawyer@csldf.org

The Climate Science Legal Defense Fund produced this guide to help scientists understand their rights under scientific integrity policies at universities, state agencies, and international institutions. This guide concerns only U.S. laws, and nothing in it should be construed as legal advice for your individual situation.

CSLDF provides free counsel to scientists with legal questions pertaining to their work. Contact us at **(646) 801-0853** or email **lawyer@csldf.org** to arrange a free and confidential consultation with an attorney.

The Climate Science Legal Defense Fund (CSLDF) works to protect the scientific endeavor by helping defend climate scientists against politically and ideologically motivated attacks. CSLDF is a non-profit organization under section 501(c)(3) of the Internal Revenue Code.

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