Allegations of misconduct

COPE Webinar
12 April 2019

Guest speakers:

• **Susan Garfinkel**, Assistant Vice President for Research Compliance, Ohio State University, Ohio, garfinkel.18@osu.edu
• **Tara Hoke**, General Counsel, American Society of Civil Engineers, and COPE Trustee, thoke@asce.org

Moderator:
• **Nancy Chescheir**, editor in chief, Obstetrics and Gynecology, and COPE Council, NChescheir@greenjournal.org
COPE Webinar: Allegations of misconduct

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COPE Webinar: Allegations of misconduct

Thank you for joining the COPE Webinar on Creating and implementing research data policies. The Webinar will begin promptly at 4.00pm (BST) and finish at 5.00pm (BST).

Note: Recording & summary report will be uploaded to COPE website
Allegations of misconduct

COPE Webinar
12 April 2019

Lightning Poll 1
COPE Webinar: Allegations of misconduct

COPE resources

Core Practice 1.
https://publicationethics.org/misconduct

1. Allegations of misconduct

Journals should have a clearly described process for handling allegations, however they are brought to the journal's or publisher's attention. Journals must take seriously allegations of misconduct pre-publication and post-publication. Policies should include how to handle allegations from whistleblowers.

View all Allegations of misconduct resources
COPE Webinar: Allegations of misconduct

COPE’s Working Definition of Misconduct

Misconduct in its *broader* sense:

Any practice that may affect the reliability of the research record in terms of findings, conclusions, or attribution.

Wager E, Kleinert S on behalf of COPE Council, Cooperation between research institutions and journals: On research integrity cases: Guidance from the Committee on Publication Ethics (COPE) March 2012.
COPE Webinar: Allegations of misconduct

Allegation of Misconduct

• May be raised by journal or author(s)’ institution
• Two way confidential communications
  — Research institutions should notify journals if investigation of one of its researchers identifies misconduct that affects reliability or attribution of published work
  — Should cooperate appropriately with editors so that s/he can determine appropriate response
  — Editors should cooperate promptly with institutions if asked to provide information

Wager E, Kleinert S on behalf of COPE Council, Cooperation between research institutions and journals On research integrity cases: Guidance from the Committee on Publication Ethics (COPE) March 2012
• Inform institutions about possible misconduct per COPE guidelines
• Journals need to provide evidence to support allegations of misconduct
• If misconduct found at institutional level, journals need to be prepared to issue retractions or corrections

Wager E, Kleinert S on behalf of COPE Council, Cooperation between research institutions and journals: On research integrity cases: Guidance from the Committee on Publication Ethics (COPE) March 2012
Allegations of Research Misconduct
Institutional Perspective

Susan Garfinkel, Ph.D.
Assistant Vice President for Research Compliance
Ohio State University
April 12, 2019
An Institution’s Process

1. Institution assesses allegation
   - Fits definition RM Specific & credible

2. Institution conducts an inquiry
   - Preliminary fact-finding & information gathering indicates allegation has substance

3. Institution conducts an investigation
   - Finding of Research Misconduct, or not
     - Recommends Sanctions
Handling Research Misconduct

Research Misconduct is narrowly defined.

- Under the federal regulations, it includes the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

- Excludes honest error, authorship disputes, self-plagiarism, lab conflicts, and other QRPs (questionable research practices).
Who Handles Research Misconduct Allegations at US Institutions?

Research Integrity Officer ("RIO")
What is a RIO?

Although Not Defined by Regulation, the RIO’s Role Has Evolved

- Administer the institution’s policies and procedures
- Assure compliance
- Neutral, objective party
- Interacts with federal agencies, journals
- Handles QRPs/DRPs (authorship, mentoring, data management, etc.) and refers to other University offices
Where is the RIO?

Office of Research Compliance

or

Office for Research Integrity
Where is the RIO?

Office of Research Compliance

“Contact Us”

Working with ARIO
Association for Research Integrity Officers

https://www.ariohq.org/
CONFIDENTIALITY (Federal Regulations)

§ 93.108 Confidentiality.
(a) Disclosure of the identity of respondents and complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective and fair research misconduct proceeding, and as allowed by law.

(b) Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be identified. Disclosure is limited to those who have a need to know to carry out a research misconduct proceeding.
Do journal editors/publishers have a “need to know”?

Depends on who you ask!

Some say YES/Some say NO
When is the right time to contact?
What information should be told?
Elements to prove Research Misconduct

A **finding of research misconduct** requires:

1. There be a **significant departure** from the accepted practices of the relevant research community; and

2. The misconduct was **committed intentionally, knowingly, or recklessly**; [by Respondent] and

3. The allegation [falsification, fabrication or plagiarism] be proved by a preponderance of the evidence

(Federal regulations and University Policy)
One View of Confidentiality

Easier Part: (doesn’t take too long)

The allegation [falsification, fabrication or plagiarism] **be proved by a preponderance of the evidence**

a. iThenticate for plagiarism
b. image analysis tools

Harder Part: (takes a long time)

The misconduct was **committed intentionally, knowingly, or recklessly** [by Respondent]

a. was Respondent responsible?
b. what proof/evidence do you have that it was Respondent?
One View of Confidentiality

Questions that still need an answer . . .

Will an institution release information about an ongoing misconduct matter to journals when they know F/F/P occurred but don’t know who was responsible?

- what are the consequences of this on co-authors or if a research misconduct finding cannot be made?

Will journals correct/retract papers without approval of all the authors if data is incorrect?

- how much data will journals ask for? Do journals need information on investigations? findings of research misconduct?
THANK YOU
Allegations of misconduct

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Lightning Poll 2
Allegations of misconduct

The role of COPE’s Facilitation & Integrity Committee

Tara Hoke
General Counsel, American Society of Civil Engineers, and COPE Trustee
1. Allegations of misconduct

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View all Allegations of misconduct resources
What is “Due” Process?

Balancing test, considering factors such as:

- private interest(s) that will be affected by the official action;
- the risk of error in the procedures used vs. the benefit of additional procedural safeguards; and
- your interests, including both the fulfillment of your function and the financial and administrative burdens of the procedural requirements

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Elements of Due Process:

1. Adequate notice
2. Opportunity to be heard
3. Fair and impartial judgment
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**Adequate Notice**
- Are the rules being enforced clearly expressed?
- Do the persons involved clearly understand both the allegation and the process to be followed?
- Is the decision clearly communicated?

**Opportunity to be Heard**
- Do persons involved have the ability to make their case?
- Is evidence appropriately shared, and adequate time given for response?
- Are there barriers imposed on participation?

**Fair Judgment**
- Is the decision evidence-based?
- Is it applied fairly to all?
- Is the arbiter neutral (no conflicts of interest)?
- Is the decision made in good faith? (no predetermined result)
Facilitation & Integrity Committee

- Primary focus is on education
- Not a “police” force or a prosecutor
- Looks at the procedures followed, not the substance
- Enforces commitment to follow core principles of publication ethics
- Provides a mechanism for taking action when a member can’t/won’t honor that commitment
### COPE Webinar: Allegations of misconduct

#### Concern type, Facilitation & integrity process – Nov 2017 to Oct 2018

<table>
<thead>
<tr>
<th>Concern type</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concerns about integrity of published work</td>
<td>20</td>
</tr>
<tr>
<td>Concern about editor's decision to retract</td>
<td>8</td>
</tr>
<tr>
<td>Rejection of submission</td>
<td>8</td>
</tr>
<tr>
<td>Plagiarism/text overlap</td>
<td>5</td>
</tr>
<tr>
<td>Difficulty publishing letter or rebuttal in response to published article</td>
<td>5</td>
</tr>
<tr>
<td>Competing interests</td>
<td>5</td>
</tr>
<tr>
<td>Salami slicing/overlap between publications</td>
<td>4</td>
</tr>
<tr>
<td>Lack of acknowledgement/citation to earlier published work</td>
<td>4</td>
</tr>
<tr>
<td>Concern about journal's handling of submission/peer review</td>
<td>3</td>
</tr>
<tr>
<td>Authorship/contributions to published work</td>
<td>2</td>
</tr>
<tr>
<td>Ethical concerns</td>
<td>2</td>
</tr>
<tr>
<td>Breach of confidentiality</td>
<td>2</td>
</tr>
<tr>
<td>Lack of editorial independence by journal (vs publisher)</td>
<td>1</td>
</tr>
<tr>
<td>Concern about tone in reviewer's report</td>
<td>1</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>“Due process” concerns identified in F&amp;I cases</th>
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<tbody>
<tr>
<td>Timeliness (of responses, of investigation)</td>
</tr>
<tr>
<td>Lack of a clear written policy on an important subject (e.g., informed consent)</td>
</tr>
<tr>
<td>Appropriate explanation of decisions (e.g., why an allegation was dismissed)</td>
</tr>
<tr>
<td>Insufficient follow-through on concerns</td>
</tr>
<tr>
<td>Failure to address all concerns in a multi-allegation complaint</td>
</tr>
<tr>
<td>Vague or inaccurate published notice (e.g., reasons for retraction)</td>
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<tr>
<td>Decision-maker with a potential conflict of interest/interference with independent judgment</td>
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<tr>
<td>Not taking care to ensure that all impacted parties are kept informed</td>
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<tr>
<td>Lack of clarity on whose responsibility it is to investigate (most common with society-run journals)</td>
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<tr>
<td>Reluctance to look into concerns raised anonymously</td>
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Lightning Poll 3
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COPE Resources

Home / Resources / Flowcharts

What to do if you suspect peer review manipulation

COPE's flowchart on what to do if you suspect peer review manipulation discovered either during or after the peer review process.

Core practices:
- Allegations of misconduct
- Peer review processes

Submit a Case

JOURNAL DETAILS

Journal *

- DATE

- Day - Month - Year

Publisher *

This will not be made public but is necessary for COPE records

Discipline *

- Select a value -

This will not be made public but is necessary for COPE records

publicationethics.org
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Questions?
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Assistant Vice President for Research Compliance, Ohio State University, Ohio

Tara Hoke
General Counsel, American Society of Civil Engineers, and COPE Trustee

Nancy Chescheir
Editor in chief, Obstetrics and Gynecology, and COPE Council

Rachel Safer
Senior Publisher at Oxford University Press, and COPE Council
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Next steps

• Please give us your feedback by responding to the email we will send you after this webinar
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Thank you!

Special thanks to:
COPE Education Subcommittee and
Linda Gough, Sarah Gilmore, Sabah Moran, Natalie Ridgeway