

DEPARTMENT OF LABOR**Office of the Secretary****Research Misconduct; Statement of Policy**

AGENCY: Office of the Secretary, Labor.

ACTION: Statement of policy on Research Misconduct.

SUMMARY: USDOL hereby publishes its policies that are to be used to implement the Federal Policy on Research Misconduct issued by the Executive Office of the President's Office of Science and Technology on December 6, 2000.

FOR FURTHER INFORMATION CONTACT:

Roland B. Droitsch, Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor at 202-693-5900.

SUPPLEMENTARY INFORMATION: The Office of Science and Technology Policy issued a final Federal research misconduct policy on December 6, 2000 in 65 FR 76260-76264 (the "Federal Policy"). The Federal Policy consists of a definition of research misconduct and basic guidelines to help Federal agencies and Federally funded research institutions respond to allegations of research misconduct.

The U.S. Department of Labor (USDOL) is publishing its policies on research misconduct fully consistent with the Federal Policy. This is a policy statement intended as a guide to USDOL managers and supervisors. It is not intended to provide any binding requirements on Department of Labor agencies, officials, or the public. It is not intended to create or recognize any legally enforceable right in any person. We refer to the USDOL policy as the "USDOL Policy."

The Federal Policy provides a uniform Federal definition of research misconduct. It defines research misconduct as fabrication, falsification, and plagiarism in proposing, performing, or reviewing research or reporting research results. The Federal Policy also defines "fabrication", "falsification", and "plagiarism". The USDOL Policy adopts the definition of research misconduct set forth in the Federal Policy.

Consistent with the Federal Policy, USDOL officials should, as appropriate, seek to protect research misconduct investigative and adjudicative files from mandatory disclosure under the Freedom of Information Act, where permitted by law and regulation.

The Department of Labor Manual Series (DLMS) 8, Audits and Investigations, Chapter 700—Incident

Reporting and Whistleblower Protection, establishes USDOL procedures and assigns responsibility for reporting and investigating allegations of wrongdoing that would include allegations of research misconduct. The USDOL Policy presented below does not supersede DLMS 8, Chapter 700, but is designed to provide supplementary policies for research misconduct issues.

Authority: 5 U.S.C. 301 and **Federal Register**/Vol. 65 No. 235, December 6, 2000, Notification of Final Policy, Executive Office of the President, Office of Science and Technology Policy.

Definitions

(1) The "Federal Policy" means the Federal research misconduct policy issued by the Office of Science and Technology Policy on December 6, 2000 in 65 FR 76260-76264.

(2) "Research misconduct" means conduct which a preponderance of the evidence demonstrates to be a significant departure from accepted practices or intentional, knowing, or reckless fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or reporting research results. Research misconduct does not include honest error or differences of opinion.

(a) "Fabrication" means making up data or results and recording or reporting them.

(b) "Falsification" means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research record is not accurately represented in the research record.

(c) "Plagiarism" means the appropriation of another person's ideas, processes, results or words without giving appropriate credit.

(3) "USDOL" means the United States Department of Labor as an entity, or to any agency of the United States Department of Labor acting under the authority of the United States Department of Labor, with the exception of the Office of Inspector General of the United States Department of Labor.

(4) "Appropriate USDOL Agency" means the USDOL agency that has supported or contracted for the research that involves an allegation of research misconduct.

(5) "OIG" means the Office of Inspector General of the United States Department of Labor.

(6) "Agency Head" (AH) means the director of a USDOL agency that has the authority to or has been delegated the authority to commit USDOL support for research or to purchase research

services or products for the USDOL or one of its agencies.

(7) "Awardee Institution" means an institution or organization that has received research support from a USDOL agency or that has received a contract or grant to provide research services or products to a USDOL agency.

(8) "The USDOL Policy" means the policy and procedures issued by the USDOL to deal with allegations of research misconduct involving research supported by or contracted for by a USDOL agency.

General Policies

(1) USDOL agencies support research activities through grants or other agreements to provide research support. USDOL agencies also purchase research services and products through contracts and purchase orders.

(2) USDOL should take appropriate action against individuals or institutions upon a finding that research misconduct has occurred while conducting or performing research that has been supported by a USDOL agency or that has been contracted for by a USDOL agency.

(3) Allegations of research misconduct against employees of USDOL while in the performance of their official duties are covered by existing laws, rules, regulations and Departmental policy relating to misconduct of its employees, and not by "The USDOL Policy," but in cases involving alleged research misconduct against DOL employees while in the performance of their official duties, DOL officials should apply these laws, rules, regulations and Departmental policy in a manner consistent with the "Federal Policy."

(4) USDOL officials should issue a finding of research misconduct only after a careful inquiry and investigation by (a) an awardee institution, (b) by another Federal agency, (c) by the OIG, or (d) by the Appropriate USDOL Agency. An inquiry consists of preliminary information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of research misconduct has substance and if an investigation is warranted. An investigation should ordinarily be undertaken if the inquiry determines the allegation or apparent instance of research misconduct has substance. An investigation is a formal development, examination and evaluation of a factual record to determine whether research misconduct has taken place, to assess its extent and consequences, and to evaluate appropriate action.