

15.99.03.E1.04 Adjudication, Appeal and Review

Approved: July 31, 2002

This Standard Administrative Procedure is provided as a guide to implement TEES Rule 15.99.03.E1

1. INSTITUTIONAL ACTIONS

Depending on who is the primary employer, the Texas Engineering Experiment Station (TEES) Associate Director for Finance and Administration or the Executive Vice President and Provost of Texas A&M University (TAMU) or the academic official of a faculty member's respective institution, based on the final investigative report, shall decide the appropriate action(s) to take consistent with TEES Rule 15.99.03.E1 and related Standard Administrative Procedures. The deciding official of TEES may accept the recommendations of the investigative committee or modify or reverse them. Based on the evidence and academic impact, the deciding official may also involve the Provost of TAMU or the academic official of a faculty member's respective institution, again depending on who is the primary employer. The deciding official's decision, reasons and sanctions will become the final report. The designated officer shall transmit that report to the respondent within ten working days of the deciding official receiving the final investigation report. This time limit may be extended for good cause and must be documented in the record.

1.0.1 The deciding official may exonerate the respondent and instruct the designated officer or research standards officer to assist with the plans to restore the respondent's reputation and research capability and to protect the good faith complainant against retaliation, as required. If the allegations of misconduct are substantiated, the deciding official will instruct that appropriate actions be taken against the respondent commensurate with the level of intent such as a letter of reprimand, special supervision, probate or termination. In these instances, the deciding official shall, with the assistance of the research standards officer and the investigative committee, identify any published research reports that should be retracted or corrected and notify the

appropriate journal editors.

1.1 Appeal

The respondent may appeal all or any part of the final decision by filing a written appeal to the Agency Director or if an academic component is applicable, the president of the respective institution, depending on the primary employer, within ten working days of receiving the final decision. This time limit may be extended for good cause and must be documented in the record. The appeal shall state:

1. that there is new evidence that was not available to the investigative committee;
2. that the recommended sanction is not commensurate with the severity or intent of the alleged misconduct;
3. the decision is not supported by the evidence;
4. that there exists a serious breach of this procedural process.

The appeal shall be conducted by the Agency Director or president of the respective institution using written documents only. No live testimony or hearings will be conducted. Unless Section 2.0 of this administrative procedure applies, the respondent shall have only one appeal. Upon the Agency Director or President's decision, the respondent shall have exhausted all of his/her options for institutional review.

1.1.1 Agency Director's Review

The Agency Director in conjunction with an institution's President (if the institution is the primary employer) shall make the determination based on a preponderance of the evidence presented in the final investigative report, the actions and/or sanctions recommended by the deciding official and any comments or appeals received from the respondent. The Director or President may:

1. uphold all of any part of the findings and sanctions;
2. uphold all or any part of the findings of the investigative committee and impose lesser sanction(s) than recommended;

3. return the matter to the investigative committee for further consideration with instructions regarding the matters to be addressed.

If the sanction(s) is less than termination, the decision of the Director or President shall be final. This decision shall be made within ten working days of receiving an appeal. This time limit may be extended for good cause and must be documented in the record.

1.2 Notifications

The respondent will be notified in writing of the final decision by the designated officer. In addition, the Agency Director in conjunction with an institution's President (if the institution is the primary employer) and in consultation with the designated officer, will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the proceedings. The designated officer is responsible for ensuring compliance with all notification requirements of Federal or other sponsoring agencies.

2. TERMINATION AND SUBSEQUENT APPEALS

If the primary employer elects to terminate the employment of the respondent, the respondent may request a hearing before the appropriate Agency or university committee established in accordance with the System policies and institutional policies and pursues the available means of appeal following such a hearing. For cases in which the respondent(s) is a faculty member, refer to the System Policy 12.01 for faculty of a TAMU System member or the appropriate policy of academic units outside the TAMU System. For cases in which the respondent(s) is a staff member, refer to System Regulation 32.01.01.

OFFICE OF RESPONSIBILITY: Office of Policy Administration

HISTORY: New Standard Administrative Procedure