SOP 1.4  Good and Bad Faith

General Description:

42 CFR 93 defines good faith and prescribes protections for complainants and witnesses acting in good faith. On the other hand, bad faith frivolous or malicious allegations, if not handled correctly, can extend, delay and in worst cases disrupt misconduct proceedings. One example is the indefatigable ‘whistleblower’ who pursues a target respondent; when one of her/his allegations is processed and dismissed s/he simply files another. A second example is the respondent who begins to file counter-allegations to obstruct or delay the proceedings. There are others.

“Good Faith” and “Bad Faith” are defined in the regulation at 93.210:

Good Faith
“Good faith as applied to a complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping an institution meet its responsibilities. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.”

This definition permeates many other aspects of the regulation. For example:

93.203 Complainant.
“Complainant means a person who in good faith makes an allegation of research misconduct.”

And:

93.226 Retaliation
“An adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to:
(a) A good faith allegation of research misconduct; or
(b) Good faith cooperation with a research misconduct proceeding”.

Procedures:
Policy 4007 includes the requirement for complainants, witnesses, and committee members to act in good faith as defined above.
1. The RIO has the authority and responsibility to investigate instances of possible bad faith on the part of a complainant, witness, or committee member and to provide evidence of possible bad faith to the Deciding Official.
2. The RIO has the ability to warn complainants, witnesses, or committee members against bad faith allegations.
3. The Deciding Official may take or recommend disciplinary action outlined in university policies and procedures against individuals acting in bad faith.
4. The RIO’s investigation report may be shared with the respondent or any other member of Mason’s community harmed by bad faith allegations to enable bringing a grievance under the grievance provisions of the Faculty Handbook.
5. The RIO’s investigation and/or Deciding Official’s findings of bad faith allegations may be shared outside of the university to enable restoration of reputations for individuals harmed by bad faith allegations.

**Related Forms, Guidance, and SOPs:**

Policy 4007, Misconduct in Research and Scholarship

**Responsibility:**

Execution of SOP:
Deciding Official
Research Integrity Officer

**Approval and Version History:**

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