

(b) The Department of Defense may issue supplemental regulations to implement paragraph (a) of this section.

APPENDIX A TO PART 418—
CERTIFICATION REGARDING LOBBYING

CERTIFICATION FOR CONTRACTS, GRANTS,
LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned must complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned must require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients must certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

STATEMENT FOR LOAN GUARANTEES AND LOAN
INSURANCE

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States

to insure or guarantee a loan, the undersigned must complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**PART 421—REQUIREMENTS FOR
DRUG-FREE WORKPLACE (FINAN-
CIAL ASSISTANCE)**

Sec.

421.10 What does this part do?

421.20 Does this part apply to me?

421.30 What policies and procedures must I follow?

**Subpart A—Purpose and Coverage
[Reserved]**

**Subpart B—Requirements for Recipients
Other Than Individuals**

421.225 Whom in the USDA does a recipient other than an individual notify about a criminal drug conviction?

**Subpart C—Requirements for Recipients
Who Are Individuals**

421.300 Whom in the USDA does a recipient who is an individual notify about a criminal drug conviction?

**Subpart D—Responsibilities of Agency
Awarding Officials**

421.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB guidance?

**Subpart E—Violations of This Part and
Consequences**

421.500 Who in the USDA determines that a recipient other than an individual violated the requirements of this part?

421.505 Who in the USDA determines that a recipient who is an individual violated the requirements of this part?

AUTHORITY: 41 U.S.C. 701-707.

SOURCE: 76 FR 76610, Dec. 8, 2011, unless otherwise noted.

§ 421.10

2 CFR Ch. IV (1–1–25 Edition)

§ 421.10 What does this part do?

This part requires that the award and administration of USDA grants and cooperative agreements comply with Office of Management and Budget (OMB) guidance implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101–8106, as amended, hereafter referred to as “the Act”) that applies to grants. It thereby—

(a) Gives regulatory effect to the OMB guidance (Subparts A through F of 2 CFR part 182) for USDA’s grants and cooperative agreements; and

(b) Establishes USDA policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 8106 for Governmentwide implementing regulations.

[76 FR 76610, Dec. 8, 2011, as amended at 89 FR 68333, Aug. 26, 2024]

§ 421.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in Subparts A through F of 2 CFR part 182 (see table at 2 CFR 182.115(b)) apply to you if you are a—

(a) Recipient of a USDA grant or cooperative agreement; or

(b) USDA awarding official.

§ 421.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB guidance in Subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB guidance that this part supplements.* In implementing the OMB guidance in 2 CFR part 182, this part supplements four sections of the guidance, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB guidance, as supplemented by this part.

Section of OMB guidance	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 421.225	Whom in the USDA a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 421.300	Whom in the USDA a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 421.500	Who in the USDA is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505	§ 421.505	Who in the USDA is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB guidance that this part does not supplement.* For any section of OMB guidance in Subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, USDA policies and procedures are the same as those in the OMB guidance.

Subpart A—Purpose and Coverage [Reserved]

Subpart B—Requirements for Recipients Other Than Individuals

§ 421.225 Whom in the USDA does a recipient other than an individual notify about a criminal drug conviction?

A recipient other than an individual that is required under 2 CFR 182.225(a) to notify Federal agencies about an employee’s conviction for a criminal drug offense must notify the awarding official for each USDA agency from which the recipient currently has an award.

Subpart C—Requirements for Recipients Who Are Individuals

§ 421.300 Whom in the USDA does a recipient who is an individual notify about a criminal drug conviction?

A recipient who is an individual that is required under 2 CFR 182.300(b) to notify Federal agencies about a conviction for a criminal drug offense must notify the awarding official for each USDA agency from which the recipient currently has an award.

Subpart D—Responsibilities of Agency Awarding Officials

§ 421.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB guidance?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB guidance at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of part 421, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 8101–8106).

[89 FR 68333, Aug. 26, 2024]

Subpart E—Violations of This Part and Consequences

§ 421.500 Who in the USDA determines that a recipient other than an individual violated the requirements of this part?

The Secretary of Agriculture and the Secretary’s designee or designees are authorized to make the determination under 2 CFR 182.500.

§ 421.505 Who in the USDA determines that a recipient who is an individual violated the requirements of this part?

The Secretary of Agriculture and the Secretary’s designee or designees are authorized to make the determination under 2 CFR 182.505.

PART 422—RESEARCH INSTITUTIONS CONDUCTING USDA-FUNDED EXTRAMURAL RESEARCH; RESEARCH MISCONDUCT

Sec.

- 422.1 Definitions.
- 422.2 Procedures.
- 422.3 Inquiry, investigation, and adjudication.
- 422.4 USDA Panel to determine appropriateness of research misconduct policy.
- 422.5 Reservation of right to conduct subsequent inquiry, investigation, and adjudication.
- 422.6 Notification of USDA of allegations of research misconduct.
- 422.7 Notification of ARIO during an inquiry or investigation.
- 422.8 Communication of research misconduct policies and procedures.
- 422.9 Documents required.
- 422.10 Reporting to USDA.
- 422.11 Research records and evidence.
- 422.12 Remedies for noncompliance.
- 422.13 Appeals.
- 422.14 Relationship to other requirements.

AUTHORITY: 5 U.S.C. 301; 7 CFR 2610.1(c); Federal Policy on Research Misconduct (65 FR 76260)

SOURCE: 89 FR 68333, Aug. 26, 2024, unless otherwise noted.

§ 422.1 Definitions.

The following definitions apply to this part:

Adjudication. The stage in response to an allegation of research misconduct when the outcome of the investigation is reviewed, and appropriate corrective actions, if any, are determined. Corrective actions generally will be administrative in nature, such as termination of an award, debarment, award restrictions, recovery of funds, or correction of the research record. However, if there is an indication of violation of civil or criminal statutes, civil or criminal sanctions may be pursued.

Agency Research Integrity Officer (ARIO). The individual appointed by a USDA agency that conducts research and who is responsible for:

- (1) Receiving and processing allegations of research misconduct as assigned by the USDA RIO;
- (2) Informing OIG and the USDA RIO and the research institution associated with the alleged research misconduct, of allegations of research misconduct

§ 422.1

2 CFR Ch. IV (1–1–25 Edition)

in the event it is reported to the USDA agency;

(3) Ensuring that any records, documents and other materials relating to a research misconduct allegation are provided to OIG when requested;

(4) Coordinating actions taken to address allegations of research misconduct with respect to extramural research with the research institution(s) at which time the research misconduct is alleged to have occurred, and with the USDA RIO;

(5) Overseeing proceedings to address allegations of extramurally funded research misconduct at intramural research institutions and research institutions where extramural research occurs;

(6) Ensuring that agency action to address allegations of research misconduct at USDA agencies performing extramurally funded research is performed at an organizational level that allows an independent, unbiased, and equitable process;

(7) Immediately notifying OIG, the USDA RIO, and the applicable research institution if:

(i) Public health or safety is at risk;

(ii) USDA's resources, reputation, or other interests need protecting;

(iii) Research activities should be suspended;

(iv) Federal action may be needed to protect the interest of a subject of the investigation or of others potentially affected;

(v) A premature public disclosure of the inquiry into or investigation of the allegation may compromise the process;

(vi) The scientific community or the public should be informed; or

(vii) Behavior that is or may be criminal in nature is discovered at any point during the inquiry, investigation, or adjudication phases of the research misconduct proceedings;

(8) Documenting the dismissal of the allegation, and ensuring that the name of the accused individual and/or institution is cleared if an allegation of research misconduct is dismissed at any point during the inquiry or investigation phase of the proceedings;

(9) Other duties relating to research misconduct proceedings as assigned.

Allegation. A disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement, or by other means of communication to an institutional or USDA official.

Applied research. Systematic study to gain knowledge or understanding necessary to determine the means by which a recognized and specific need may be met.

Assistant Inspector General for Investigations. The individual in OIG who is responsible for OIG's domestic and foreign investigative operations through OIG's national and regional investigative offices.

Basic research. Systematic study directed toward fuller knowledge or understanding of the fundamental aspects of phenomena and of observable facts without specific applications towards processes or products in mind.

Extramural research. Research conducted by any research institution or entity other than the Federal agency to which the funds supporting the research were appropriated. Research institutions conducting extramural research may include Federal research facilities.

Fabrication. Making up data or results and recording or reporting them.

Falsification. Manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

Finding of research misconduct. The conclusion, proven by a preponderance of the evidence, that research misconduct occurred, that such research misconduct represented a significant departure from accepted practices of the relevant research community, and that such research misconduct was committed intentionally, knowingly, or recklessly.

Inquiry. The stage in the response to an allegation of research misconduct when an assessment is made to determine whether the allegation has substance and whether an investigation is warranted.

Intramural research. Research conducted by a Federal Agency, to which funds were appropriated for the purpose of conducting research.

Department of Agriculture

§ 422.2

Investigation. The stage in the response to an allegation of research misconduct when the factual record is formally developed and examined to determine whether to dismiss the case, recommend a finding of research misconduct, and/or take other appropriate remedies.

Office of Inspector General (OIG). The Office of Inspector General of the United States Department of Agriculture.

Office of Science and Technology Policy (OSTP). The Office of Science and Technology Policy of the Executive Office of the President.

Plagiarism. The appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Preponderance of the evidence. Proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Research. All basic, applied, and demonstration research in all fields of science, engineering, and mathematics. This includes, but is not limited to, research in economics, education, linguistics, medicine, psychology, social sciences, statistics, and research involving human subjects or animals regardless of the funding mechanism used to support it.

Research institution. All organizations using Federal funds for research, including, for example, colleges and universities, Federally funded research and development centers, national user facilities, industrial laboratories, or other research institutes. Activities which meet this definition constitute research for purposes of this part, whether or not they are conducted or supported under a program which is considered "research" for other purposes. For example, some demonstration and service programs may include research/scientific activities.

Research misconduct. Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.

Research record. The record of data or results that embody the facts resulting from scientific inquiry, and includes,

but is not limited to, research proposals, research records (including data, notes, journals, laboratory records (both physical and electronic)), progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.

USDA. United States Department of Agriculture.

USDA Research Integrity Officer (USDA RIO). The individual designated by the Office of the Under Secretary for Research, Education, and Economics (REE) who is responsible for:

- (1) Overseeing USDA agency responses to allegations of research misconduct;
- (2) Ensuring that agency research misconduct procedures are consistent with this part;
- (3) Receiving and assigning allegations of research misconduct reported by the public;
- (4) Developing Memoranda of Understanding with agencies that elect not to develop their own research misconduct procedures;
- (5) Monitoring the progress of all research misconduct cases; and
- (6) Serving as liaison with OIG to receive allegations of research misconduct when they are received via the OIG Hotline.

§ 422.2 Procedures.

Research institutions that conduct extramural research funded by USDA must foster an atmosphere conducive to research integrity. They must develop or have procedures in place to respond to allegations of research misconduct that ensure:

- (a) Appropriate separations of responsibility for inquiry, investigation, and adjudication;
- (b) Objectivity;
- (c) Due process;
- (d) Whistleblower protection;
- (e) Confidentiality—to the extent possible and consistent with a fair and thorough investigation and as allowed by law, knowledge about the identity of subjects and complainants is limited to those who need to know; and
- (f) Timely resolution.

§ 422.3

2 CFR Ch. IV (1–1–25 Edition)

§ 422.3 Inquiry, investigation, and adjudication.

A research institution that conducts extramural research funded by USDA bears primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct allegations reported directly to it. The research institution must perform an inquiry in response to an allegation, and must follow the inquiry with an investigation if the inquiry determines that the allegation or apparent instance of research misconduct has substance. The responsibilities for adjudication must be separate from those for inquiry and investigation. In most instances, USDA will rely on a research institution conducting extramural research to promptly:

- (a) Initiate an inquiry into any suspected or alleged research misconduct;
- (b) Conduct a subsequent investigation, if warranted;
- (c) Acquire, prepare, and maintain appropriate records of allegations of extramural research misconduct and all related inquiries, investigations, and findings; and
- (d) Take action to ensure the following:
 - (1) The integrity of research;
 - (2) The rights and interests of the subject of the investigation and the public are protected;
 - (3) The observance of legal requirements or responsibilities including cooperation with criminal investigations; and
 - (4) Appropriate safeguards for subjects of allegations, as well as complainants (see § 422.6). These safeguards should include timely written notification of subjects regarding substantive allegations made against them; a description of all such allegations; reasonable access to the data and other evidence supporting the allegations; and the opportunity to respond to allegations, the supporting evidence and the proposed findings of research misconduct, if any.

§ 422.4 USDA Panel to determine appropriateness of research misconduct policy.

Before USDA will rely on a research institution to conduct an inquiry, in-

vestigation, and adjudication of an allegation in accordance with this part, the research institution where the research misconduct is alleged must provide the ARIO its policies and procedures related to research misconduct at the institution. The research institution has the option of providing either a written copy of such policies and procedures or a website address where such policies and procedures can be accessed. The ARIO to whom the policies and procedures were made available must convene a panel comprised of the USDA RIO and ARIOs from the Forest Service, the Agricultural Research Service, and the National Institute of Food and Agriculture. The Panel will review the research institution's policies and procedures for compliance with the OSTP Policy and render a decision regarding the research institution's ability to adequately resolve research misconduct allegations. The ARIO will inform the research institution of the Panel's determination that its inquiry, investigation, and adjudication procedures are sufficient. If the Panel determines that the research institution does not have sufficient policies and procedures in place to conduct inquiry, investigation, and adjudication proceedings, or that the research institution is in any way unfit or unprepared to handle the inquiry, investigation, and adjudication in a prompt, unbiased, fair, and independent manner, the ARIO will inform the research institution in writing of the Panel's decision. An appropriate USDA agency, as determined by the Panel, will then conduct the inquiry, investigation, and adjudication of research misconduct in accordance with this part. If an allegation of research misconduct is made regarding extramural research conducted at a Federal research institution (whether USDA or not), it is presumed that the Federal research institution has research misconduct procedures consistent with the OSTP Policy. USDA reserves the right to convene the Panel to assess the sufficiency of a Federal agency's research misconduct procedures, should there be any question whether the agency's procedures will ensure a fair, unbiased, equitable, and independent inquiry, investigation, and adjudication process.

Department of Agriculture

§ 422.6

§ 422.5 Reservation of right to conduct subsequent inquiry, investigation, and adjudication.

(a) USDA reserves the right to conduct its own inquiry, investigation, and adjudication into allegations of research misconduct at a research institution conducting extramural research subsequent to the proceedings of the research institution related to the same allegation. This may be necessary if the USDA RIO or ARIO believes, using sound discretion, that despite the Panel's finding that the research institution in question had appropriate and OSTP-compliant research misconduct procedures in place, the research institution conducting the extramural research at issue:

(1) Did not adhere to its own research misconduct procedures;

(2) Did not conduct research misconduct proceedings in a fair, unbiased, or independent manner; or

(3) Has not completed research misconduct inquiry, investigation, or adjudication in a timely manner.

(b) Additionally, USDA reserves the right to conduct its own inquiry, investigation, and adjudication into allegations of research misconduct at a research institution conducting extramural research subsequent to the proceedings of the research institution related to the same allegation for any other reason that the USDA RIO or ARIO considers it appropriate to conduct research misconduct proceedings in lieu of the research institution's conducting the extramural research at issue. This right is subject to paragraph (c) of this section.

(c) In cases where the USDA RIO or ARIO believes it is necessary for USDA to conduct its own inquiry, investigation, and adjudication subsequent to the proceedings of the research institution related to the same allegation, the USDA RIO or ARIO will reconvene the Panel, which will determine whether it is appropriate for the relevant USDA agency to conduct the research misconduct proceedings related to the allegation(s) of research misconduct. If the Panel determines that it is appropriate for a USDA agency to conduct the proceedings, the ARIO will immediately notify the research institution in question. The research institution

must then promptly provide the relevant USDA agency with documentation of the research misconduct proceedings the research institution has conducted to that point, and the USDA agency will conduct research misconduct proceedings in accordance with the Agency research misconduct procedures.

§ 422.6 Notification of USDA of allegations of research misconduct.

(a) Research institutions that conduct USDA-funded extramural research must promptly notify OIG and the USDA RIO of all allegations of research misconduct or violations of Federal criminal statutes involving USDA funds when the institution inquiry into the allegation warrants the institution moving on to an investigation.

(b) Individuals at research institutions who suspect research misconduct at the institution should report allegations in accordance with the institution's research misconduct policies and procedures. Anyone else who suspects that researchers or research institutions performing Federally funded research may have engaged in research misconduct is encouraged to make a formal allegation of research misconduct to OIG.

(1) OIG has established a hotline for USDA employees and the general public to report fraud, waste, abuse, and mismanagement in USDA programs including allegations of research misconduct. Complaints, which may be submitted anonymously, must be filed with the OIG by submitting a complaint via the hotline on OIG's public website, sending a fax, or writing a letter.

(i) The OIG hotline may be accessed at <https://usdaoig.oversight.gov/hotline>.

(ii) Complainants who submit to the hotline on OIG's public website and who wish to provide additional documentation may fax them to (202) 690-2474.

(iii) Letters may be mailed to: United States Department of Agriculture, Office of Inspector General, P.O. Box 23399, Washington, DC 20026-3399.

(2) The USDA RIO may be reached at: USDA Research Integrity Officer, 214W Whitten Building, Washington, DC

§ 422.7

20250. Telephone: (202) 690-0745. Email: researchintegrity@usda.gov.

(c) To the extent known, the following details should be included in any formal allegation:

(1) The name of the research projects involved, the nature of the alleged misconduct, and the names of the individual or individuals alleged to be involved in the misconduct;

(2) The source or sources of funding for the research project or research projects involved in the alleged misconduct;

(3) Important dates;

(4) Any documentation that bears upon the allegation; and

(5) Any other potentially relevant information.

(d) Safeguards for complainants give individuals the confidence that they can bring allegations of research misconduct made in good faith to the attention of appropriate authorities or serve as complainants to an inquiry or an investigation without suffering retribution. Safeguards include protection against retaliation for complainants who make good faith allegations, fair and objective procedures for the examination and resolution of allegations of research misconduct, and diligence in protecting the positions and reputations of those persons who make allegations of research misconduct in good faith. The identity of complainants who wish to remain anonymous will be kept confidential to the extent permitted by law or regulation.

§ 422.7 Notification of ARIO during an inquiry or investigation.

(a) Research institutions that conduct USDA-funded extramural research must promptly notify the ARIO should the institution become aware during an inquiry or investigation that:

(1) Public health or safety is at risk;

(2) The resources, reputation, or other interests of USDA are in need of protection;

(3) Research activities should be suspended;

(4) Federal action may be needed to protect the interest of a subject of the investigation or of others potentially affected;

(5) A premature public disclosure of the inquiry into or investigation of the

2 CFR Ch. IV (1–1–25 Edition)

allegation may compromise the process;

(6) The scientific community or the public should be informed; or

(7) There is reasonable indication of possible violations of civil or criminal law.

(b) If research misconduct proceedings reveal behavior that may be criminal in nature at any point during the proceedings, the institution must promptly notify the ARIO.

§ 422.8 Communication of research misconduct policies and procedures.

Institutions that conduct USDA-funded extramural research are to maintain and effectively communicate to their staff policies and procedures relating to research misconduct, including the guidelines in this part. The institution is to inform their researchers and staff members who conduct USDA-funded extramural research when and under what circumstances USDA is to be notified of allegations of research misconduct, and when and under what circumstances USDA is to be updated on research misconduct proceedings.

§ 422.9 Documents required.

(a) A research institution that conducts USDA-funded extramural research must maintain the following documents related to an allegation of research misconduct at the research institution:

(1) A written statement describing the original allegation;

(2) A copy of the formal notification presented to the subject of the allegation;

(3) A written report describing the inquiry stage and its outcome including copies of all supporting documentation;

(4) A description of the methods and procedures used to gather and evaluate information pertinent to the alleged misconduct during inquiry and investigation stages;

(5) A written report of the investigation, including the evidentiary record and supporting documentation;

(6) A written statement of the findings; and

(7) If applicable, a statement of recommended corrective actions, and any