How the ORI handles plagiarism

Plagiarism Workshop
May 8, 2013
Colorado State University

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The views expressed here are mine and not necessarily those of ORI or the Department of Health and Human Services
ORI's Mission

Mission: To promote the integrity of PHS-supported extramural and intramural research programs

- Respond effectively to allegations of research misconduct
- Promote research integrity

Definition of Research Misconduct

- Fabrication is making up data or results and recording or reporting them
- Falsification is 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
Definition of Research Misconduct

- Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit
- Research misconduct does not include honest error or differences of opinion
  (42 CFR Part 93.103)

Proof of Research Misconduct

Requires -
- That there be a significant departure from accepted practices of the relevant research community, and
- The misconduct be committed intentionally, knowingly, or recklessly; and
- The allegation be proven by a preponderance of the evidence,
  (42 CFR Part 93.104)
ORI's Findings from 1992 include relatively few plagiarism findings.

Perhaps I should not even be here!

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So why does ORI make few plagiarism finding?

- There are a number of reasons.
- Jurisdictional limitations.
- Resources are limited.
- It is a difficult matter to assess the significance of many, often relatively minor cases of plagiarism, from ORI's distance from the case.
- ORI's findings are published, and therefore essentially immortal.
- Often, cultural factors make it difficult or impossible to prove that plagiarism was an intentional effort to deceive or mislead, a critical element of proof of misconduct.
Jurisdictional Limitations

- The definition of plagiarism at 42 C.F.R. Part 93.103, as interpreted by ORI and the Office of the General Counsel, does not permit consideration of:
  - Self-plagiarism – this is certainly a concern, and ORI does refer such allegations, but is clearly not “the appropriation of another person’s ideas, processes, results, or words.”
  - Ghost-writing – ORI does not view this as an inherent evil; science writers have a legitimate role to play as long as their participation is appropriately acknowledged and there is transparency in reporting potential conflicts.

ORI’s working definition of plagiarism

- In our December 1994 newsletter, ORI published its policy statement on how allegations of plagiarism would be handled. It stated:
- “As a general working definition, ORI considers plagiarism to include both the theft or misappropriation of intellectual property and the substantial unattributed textual copying of another’s work. It does not include authorship or credit disputes.

The theft or misappropriation of intellectual property includes the unauthorized use of ideas or unique methods obtained by a privileged communication, such as a grant or manuscript review.

Substantial unattributed textual copying of another’s work means the unattributed verbatim or nearly verbatim copying of sentences and paragraphs which materially mislead the ordinary reader regarding the contributions of the author: ORI generally does not pursue the limited use of identical or nearly-identical phrases which describe a commonly-used methodology or previous research because ORI does not consider such use as substantially misleading to the reader or of great significance.”
Collaborative Disputes:

- The December 1994 statement continued:
- "Many allegations of plagiarism involve disputes among former collaborators who participated jointly in the development or conduct of a research project, but who subsequently went their separate ways and made independent use of the jointly developed concepts, methods, descriptive language, or other product of the joint effort. The ownership of the intellectual property in many such situations is seldom clear, and the collaborative history among the scientists often supports a presumption of implied consent to use the products of the collaboration by any of the former collaborators.

For this reason, ORI considers many such disputes to be authorship or credit disputes rather than plagiarism. Such disputes are referred to PHS agencies and extramural institutions for resolution."

Limited Resources

In addition to a modestly sized staff, and many allegations of falsification and fabrication, the number of allegations has sharply risen, further straining ORI's resources.

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* First quarter
The permanence of ORI findings: prosecutorial discretion

- In 1993, ORI and HHS made a policy decision to publicize findings of research misconduct, leading to a Federal Register notice published on June 21 which included notices on 14 respondents.
- The positive aspect to this decision is the deterrent effect it may have on others contemplating inappropriate behavior.
- A negative consequence for the respondent is that the public notice can be retrieved from the internet long after the period of administrative action has been completed.
- Consequently, ORI is reluctant to make findings in weak or borderline cases, such as those where only limited amounts of text have been plagiarized.

Cultural Limitations

- I think we are all aware of the fact that a majority of the young scholars in U.S. laboratories are native to a different country.
- A large fraction of the allegations of plagiarism that ORI receives result from foreign-born scholars relying on someone else's language and often not even being aware that it is inappropriate. They may actually have been taught to do so in their country.
- ORI is very reluctant to make findings of research misconduct when this occurs, believing that it is much more appropriate for the institution to provide training in scientific writing and perhaps supervision to ensure better adherence when an individual has plagiarized.
Institutions are in a better position to appropriately deal with plagiarism

- As just suggested, many instances of plagiarism are either relatively minor, not clearly intentional, or based on ignorance.
- Furthermore, ORI is aware that nearly everyone seems to have their own definition of what constitutes significant plagiarism.
- Fortunately, ORI's regulation, 93.319 Institutional Standards, states:
  “(a) Institutions may have internal standards of conduct different from the HHS standards for research misconduct under this part. Therefore, an institution may find conduct to be actionable under its standards even if the action does not meet this part's definition of research misconduct.
  (b) An HHS finding or settlement does not affect institutional findings or administrative actions based on an institution's internal standards of conduct.”

Significance of Plagiarism

- If a broader view is taken, plagiarism appears to be more frequent than falsification or fabrication. In a recent survey of 120 individuals with an editorial role carried out by iThenticate®, and discussed in a webinar that they recently held, plagiarism ranked highest as a concern.
To plagiarize further from their webinar:

- The 120 respondents considered much of the plagiarism to be blatant and intentional, and believed that the use of plagiarism detection software was valuable (no surprise).

What about ORI’s plagiarism cases (as few as there are)?

- 42 C.F.R. Part 93, which became final in June 2005, added an interesting nuance to ORI’s jurisdiction, compared to 42 C.F.R. part 50, subpart A.
- Subpart 93.102 Applicability states at paragraph
- "(b)(v) Plagiarism of research records produced in the course of PHS supported research, research training or activities related to that research or research training.
  - (2) This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for PHS funds resulted in a grant, contract, cooperative agreement, or other form of PHS support.
- This means that ORI has jurisdiction over plagiarized material copied from PHS grants or papers citing PHS support when the respondent does not otherwise have PHS support.
The Scott Weber case

Retraction Watch

Former Pitt psych nursing researcher loses seven papers (and counting) in referencing, plagiarism scandal

with 13 comments

Scott Weber seems to have been behaving badly. The Journal of Child & Adolescent Psychiatric Nursing (CAPN) has retracted five of Weber's papers, dating back to 2003. And the Journal of the American Academy of Nurse Practitioners (JANP) and Perspectives in Psychiatric Care also have pulled articles by the nursing researcher. The reason: he misused his sources and plagiarized the work of others.

That's our interpretation of the retraction notices, which come close to saying as much but don't quite get there. Here they are, so you can judge for yourself:

The following article from the Journal of Child and Adolescent Psychiatric Nursing, "Nursing Care of Families with Parents Who Are Lesbian, Gay, Bisexual, or Transgender," by Scott Weber, published online 25 January 2013, in Wiley Online Library (www.onlinelibrary.wiley.com), has been retracted by agreement between the journal Editor-in-Chief, Elizabeth Foster, and Wiley Periodicals, Inc. The retraction has been agreed due to references that could not be verified and significant overlap with previously published material. doi:10.1111/j.1744-6171.2013.00082.x

Allegations from the University of Pittsburgh

- A submitted manuscript had been withdrawn by the editor when significant plagiarism had been detected.
- UP identified five instances of plagiarism and/or duplicate publication. One of the source papers cited involved PHS funding.
- In that example, over 90% of the manuscript submitted by Dr. Weber was taken word-for-word from a paper published in 2004 that acknowledged PHS support.
- Table 1 of the Weber manuscript reporting the demographics of the sample, used identical numbers as Table 1 of the source paper except for gender and sexual orientation. The numbers in each arm of the study were equal, and the p values were the same.
- Tables 2 and 3 of Weber were identical to Tables 2 and 3 in the source paper including p values.
Additional issues

- The Weber MS claimed that a University of Pittsburgh IRB had approved the clinical protocol. Since there was no clinical study, there was no protocol submission to the University of Pittsburgh IRB.

- In addition to the massive copying of text, 43 of the 55 references cited by Weber appeared in the source paper. Most of Weber's references not found in the source's reference list deal specifically with persons of minority sexual orientation. The source paper for the Weber MS was not included in its reference list.

- In 15 of the references appearing in both documents, the year of publication was advanced by Weber by adding as much as 20 years to the correct year, although the journal volume and page numbers were not changed.

Table 1 of the Weber manuscript, showing the plagiarized demographics (highlighted) and fabricated demographics.
Dr. Weber also included two figures that were identical to those in the source paper, which were therefore both plagiarized and false claims concerning his (lack of) research results.

Additional plagiarism by Dr. Weber

- Following the original transmittal to ORI, the UP RIO sent a second example of a manuscript flagged by an editor for similar concerns.
- In addition, DIO then identified two grant applications submitted to NIH which similarly contained significant plagiarized text.
- Dr. Weber provided a detailed admission to the University of Pittsburgh, and agreed to a three year voluntary exclusion (i.e., debarment) with ORI, effective October 3, 2011.
The Lushington/Vishvanathan plagiarism case

- ORI received an allegation of plagiarism from a scientist in Taiwan which was transmitted to the University of Kansas for their review.
- Dr. Vishvanathan, and his supervisor, Dr. Lushington, were bioinformatics researchers.
- The University of Kansas determined that significant plagiarism had occurred in three published papers and one abstract.
- Both scientists agreed to two years of supervision, during which their research would be monitored by the university.

Notable features of this case

- During the university's review, it was determined that Dr. Vishvanathan's plagiarism had been discovered earlier by a junior investigator and reported to Dr. Lushington.
- Despite learning of the plagiarism, Dr. Lushington authorized the publication of the article, as well as subsequent articles and an abstract containing plagiarized text.
- ORI therefore made a finding of misconduct against Dr. Lushington for "approving publication of three articles and one abstract he knew contained significant amounts of plagiarized text without attribution or citation from other writer's published papers."
- During the two year supervisory period, both respondents violated their agreement with the University by self-plagiarizing text (not an ORI matter) and resigned from the university.
Conclusions

- To paraphrase Mark Twain, rumors about ORI not making findings on plagiarism are greatly exaggerated.
- ORI's regulatory definition, as interpreted by our 1993 working definition, does restrict what falls within our authority.
- ORI generally views much plagiarism as less significant as falsification and fabrication of research data, and believes that these cases are best dealt with at the institutional level.
- Significant plagiarism cases will continue to warrant ORI findings.

Thank you!

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