

Despite claiming that NIH had directed it to remove Dr. Blain from the grant, SUNY Downstate's correspondence with NIH makes it clear that NIH's decision was entirely based on SUNY Downstate's misrepresentation that Dr. Blain did not cooperate with the investigation. As Dr. Richard Coico (the prior Institutional Official at SUNY Downstate responsible for research misconduct matters) testified, SUNY Downstate's Cooperation Policy requires only that a respondent cooperate in the sequestration of data (which is then made available to the Investigation Committee) and provide truthful information during requested interviews. This Cooperation Policy does not require a respondent to do the Investigation Committee's work for it.

Dr. Blain fully cooperated throughout the research misconduct process, as she had when allegations involving the same data were made against a student in her lab in 2016. Among other things, Dr. Blain provided all relevant data during sequestration efforts (and, in fact, returned early from a vacation to assist with sequestering relevant documents) and truthfully answered all questions posed to her during the course of two interviews. Indeed, it was only after Dr. Blain refused to perform the Investigation Committee's work for it – by spending hundreds, if not thousands, of hours combing through lab notebooks belonging to former lab members and analyzing the data therein – that the Investigation Committee and SUNY Downstate began to claim that Dr. Blain was uncooperative. Importantly, these lab notebooks had been identified by Dr. Blain and provided by her to SUNY Downstate as part of sequestration efforts. These notebooks belonged to students in her lab and were almost 20 years old.

The Investigation Committee sought to abdicate itself of its burden to conduct a full, impartial investigation by placing the burden on Dr. Blain and then claiming she was in violation of the Cooperation Policy when she refused. SUNY Downstate's Research Misconduct Policy unequivocally states that an Investigation Committee – not a respondent – is responsible for examining the evidence, including review of all relevant documentation. Notably, the Investigation Committee itself claimed that it was too onerous for it to review the data; and yet, whereas the Investigation Committee consisted of five experienced scientists, it expected Dr. Blain – the respondent – to perform a review that it found too burdensome despite the requirement that it do so.

Dr. Blain never withheld any data, documents, or other evidence. She responded to all of the Investigation Committee's requests and questions, and participated fully in the two interviews she was asked to attend. By doing so, she fully cooperated throughout the process. On the other hand, SUNY Downstate refused to review the data, refused to interview witnesses

reasonably identified by Dr. Blain, and convinced NIH that Dr. Blain should be removed from grants based on a purported failure to cooperate. Dr. Blain looks forward to vindication in court.

The correspondence between the NIH and SUNY Downstate makes it abundantly clear that the NIH's decision to have Dr. Blain replaced as the PI is entirely due to SUNY Downstate's misrepresentation that Dr. Blain violated the Cooperation Policy. It is also clear that SUNY Downstate views the work pursuant to the grant as meritorious and wanted to keep the funding associated with the grant. However, SUNY Downstate ignored Dr. Blain's identification of a suitable replacement and imposed its own will over the course of Dr. Blain's important research – ultimately to the clear detriment of the research itself.