420.010 Research Misconduct

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A. Policy for Reviewing Alleged Research Misconduct

1. Statement of Principles

a. Integrity in scholarship and research is a fundamental value upon which the University is founded.
b. It is the shared responsibility of all members of our academic community to ensure that misconduct in scholarship and research is dealt with in a timely and effective manner, and that the reputation of the University for high standards of scholarly and research integrity is preserved.
c. The purpose of this policy is to reaffirm the University's commitment to integrity of research and scholarship and establish the principles and procedures that will be followed in the University's review of allegations of research misconduct. The National Science Foundation, the Public Health Service, and other federal agencies have published regulations regarding the investigation of allegations of research misconduct in the context of activities supported by those agencies. The University will comply with those statutory and regulatory requirements if applicable and this policy shall be interpreted so as to conform with those requirements.

2. Applicability

a. This policy addresses research misconduct as defined in section A.3 of this policy in connection with any research conducted at the University of Missouri, regardless of the presence or absence of external funding or sponsorship of the specific research project. Other forms of misconduct that may relate to activities in scholarship and research are not addressed through this policy but may be addressed through other applicable University rules and policies, including but not limited to the Standards of Faculty Conduct, Section 330.110.
b. The provisions of this policy apply to:

1) All individuals who hold University appointments who are engaged in the design or conduct of research or the reporting of research results, regardless of the presence or absence of external funding or sponsorship of the specific research project; and
2) Anyone engaged in the design or conduct of research or the reporting of research results through a Sponsored Program at the University of Missouri, to the extent of that research.

c. Misconduct by undergraduate students shall be addressed through Sections 200.010, Standard of Conduct; and

200.020, Rules of Procedures in Student or Student Organization Conduct Matters.

d. Research misconduct by graduate students generally will be dealt with under this policy, provided that, after consultation with a university's chief academic administrator for graduate studies (such as Dean of the Graduate School or similar official), the Deciding Official as defined in this rule may, determine that an allegation of research misconduct on the part of a graduate student is more appropriately addressed under Section 200.010 and Section 200.020 or duly authorized student honor systems established pursuant to CRR 200.020.E.9 and refer the allegation to appropriate officials for action in accordance with such rules or student honor systems.

3. Definitions

a. Definitions of Research Misconduct

1) Fabrication: making up data or results and recording them in the research record.
2) Falsification: manipulating research materials, equipment, or processes, and/or changing or omitting data or results such that the research is not accurately represented in the research record.
3) Plagiarism: the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
4) Research misconduct does not include honest error, author disputes, or differences of interpretation inherent in the scientific and creative processes that are normally corrected through further research and scholarship.

b. Definitions of Key Roles and Federal Agencies

1) Complainant: refers to an individual(s) who makes an allegation of research misconduct.
2) Respondent: refers to the person against whom an allegation of research misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one Respondent in any inquiry or investigation.
3) Research Integrity Officer (RIO): refers to the University official responsible for assessing allegations of research misconduct and determining whether such allegations warrant inquiries and for overseeing inquiries and investigations. This position is appointed by the Chancellor.
4) Deciding Official (DO): refers to the University official, who makes final determinations on allegations of research misconduct and any responsive institutional actions. The Chancellor may serve as the DO or may designate the Provost or other individual to serve as the DO, provided that the DO will not be the same individual as the RIO and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment.

5) U.S. Public Health Service (PHS): an operating component of the U.S. Department of Health and Human Services (DHHS).
6) Office of Research Integrity (ORI): an operating component of the United States Department of Health and Human Services (DHSS) that is responsible for research misconduct proceedings and research integrity activities of the U.S. Public Health Service (PHS).

c. Definitions of Other Key Terms

1) Allegation refers to any written or oral statement or other indication of possible research misconduct made to an institutional official, including but not limited to department chairs, deans, Research Integrity Officers (RIOs), the Vice Chancellor for Research (VCR) or equivalent, the Associate Vice Chancellor for Research (ACVR) or equivalent, and the Provost.
2) Conflict of interest and commitment refers to a divergence between an individual's interests and the individual's professional obligations, such that an independent observer might reasonably question whether the individual's professional actions or decisions are determined by considerations other than the best interests of the University.
3) Good faith as applied to a Complainant, Respondent, or witness, means having a belief in the truth of one's allegation or statement that a reasonable person in the individual's position could have based on the information known to the individual at the time. An allegation or statement in a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or statement. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially. A committee member does not act in good faith if the member's 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.
4) Inquiry refers to the initial process for determining whether an allegation or apparent instance of research misconduct has substance and warrants an investigation.
5) Investigation refers to the formal development of a factual record and the examination of that record to determine, based on a preponderance of evidence, whether research misconduct has occurred and, if so, to determine the responsible person and the nature and seriousness of the research misconduct.
6) Research refers to any systematic investigation, including research development, testing, and reporting, designed to develop or contribute to generalizable knowledge or specific knowledge. The term encompasses basic research, applied research, and research training activities in areas such as

biomedical and life sciences, natural sciences, engineering, humanities and arts, and social and behavioral sciences.

a) Research record means any physical or electronic record of data or results that embody the facts resulting from scientific inquiry. It includes, but is not limited to data, document, computer file, computer storage device, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of research misconduct. Examples of research records include, but are not limited to, research proposals, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; abstracts; theses; oral presentations; internal reports; journal articles; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

7) Retaliation means any adverse action taken against an individual because the individual a) has made a good faith allegation of research misconduct or of inadequate institutional response thereto; or b) cooperated in good faith with any action or proceeding under this rule. This includes adverse action taken by any individual, the University, or any unit of the University.

8) Student refers to a person having once been admitted to the University who has not completed a course of study and who intends to or does continue a course of study in or through one of the Universities of the University System. For the purpose of these rules, student status continues whether or not the University's academic programs are in session.

4. General Principles
    a. Prohibition: Research misconduct is prohibited and subject to sanctions pursuant to this rule.
    b. Requirements for findings of research misconduct: A finding of research misconduct requires a determination that there has been a significant departure from accepted practices of the relevant academic community; that the research misconduct was committed intentionally, knowingly, or recklessly; and that the allegation has been proved by a preponderance of evidence.
    c. Handling of questionable research practices: Concerns in the context of research and scholarship that do not constitute research misconduct as defined in this rule, such as carelessness or questionable research practices, as well as authorship disputes, will generally be handled through the appropriate administrative channels or other applicable

processes, including but not limited to Standards of Faculty Conduct CRR 330.110.

d. Retaliation is prohibited and is subject to disciplinary action in accordance with applicable University policies. The University will take reasonable and practical steps to counter potential or actual retaliation against individuals participating in proceedings under this rule.
e. Good faith participation: Complainants, respondents, and other participants in the research misconduct review process are expected to act in good faith throughout. Failure to act in good faith may lead to disciplinary action in accordance with applicable University rules and policies.
f. Conflicts of Interest Prohibited: No individual responsible for carrying out proceedings under this rule shall have any unresolved personal, professional, or financial conflict of interest with the Complainant, Respondent, or witnesses. An individual having such a conflict of interest must promptly recuse from participation in any proceedings.
g. Responsibility to Report Research Misconduct: All employees or individuals associated with the University of Missouri must report observed, suspected, or apparent research misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, the individual may contact the RIO to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO may refer the individual or allegation to other offices or officials. At any time, an employee may have discussions and consultations about concerns of possible research misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.
h. Protecting the Complainant and Cooperating Individuals: The RIO will monitor the treatment of individuals who bring allegations of research misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The RIO will attempt to ensure that these persons will not be retaliated against and will review instances of alleged or apparent retaliation for appropriate action. Employees or those affiliated with the University or a PHS grant should immediately report any alleged or apparent retaliation to the RIO. Also, the University will maintain confidentiality as required by the terms of this rule. If the Complainant requests anonymity, the University will make a reasonable effort to honor the request during the allegation assessment or inquiry within applicable policies, regulations, and laws, if any, but the Complainant will be advised that if the matter is referred to an investigation committee, anonymity will no longer be guaranteed. The University will take all reasonable and practical steps to protect the positions and reputations of good faith Complainants, witnesses and committee members.

i. Protecting the Respondent: Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the Respondent and confidentiality as required by the terms of this rule. The Respondent may have an advisor (who is not a witness and does not otherwise have a role in the case and who may be, but is not required to be, an attorney). The Respondent's advisor may accompany the Respondent to all interviews, meetings, and proceedings involved in the case. The advisor may actively participate and assist the Respondent. The advisor may make presentations and speak on behalf of the Respondent, request clarification of a procedural matter or object on the basis of procedure, ask any witnesses all relevant questions and follow-up questions, including cross-examination.

j. Cooperation with Inquiries and Investigations: University employees and those working on PHS grants will cooperate with the RIO and other institutional officials involved in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the RIO and other University officials involved in review of research misconduct allegations.

k. Responsibility of Institution to Respond to Credible Reports of Allegations of Research Misconduct: Because the University of Missouri values the credibility of its research activities and the integrity of its community, allegations of research misconduct are evaluated to determine whether there is specific and credible information on which to act. Just as the University protects Complainants against retaliation, the University is equally concerned about malicious or frivolous allegations made against its research community. The university performs a careful assessment of all allegations brought to the attention of institutional officials. The RIO, AVCR, VCR, and the DO shall consider and act upon any specific and credible information that comes to their attention indicating that research misconduct may have occurred. The RIO and other institutional officials assigned responsibility for handling allegations of research misconduct ensure that:

   1) The allegation assessment, inquiry, and investigation are completed in a timely, fair, objective, thorough, and competent manner; and
   2) Reasonable precautions are taken to avoid bias and conflict of interest on the part of those involved in conducting the inquiry and investigation.

l. At any time during the assessment period or research misconduct proceedings, the University of Missouri will notify the appropriate funding and oversight agencies if:

   1) Public health or safety is at risk;
   2) Agency resources or interests are threatened;
   3) Research activities should be suspended;
   4) There is reasonable indication of possible violations of civil

or criminal law;
5) Federal action is required to protect the interests of those involved in the investigation;
6) The University believes the research misconduct proceeding may be made public prematurely, so the agency may take appropriate steps to safeguard evidence and protect the rights of those involved or
7)The research community or public should be informed.

m. Confidentiality:

1) Disclosure of the identity of Respondents and Complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective, and fair research misconduct proceeding, and as allowed by law. The applicable laws and regulations may require the institution to disclose the identity of Respondents and Complainants to federal oversight agencies pursuant to the agency's review of institutional research misconduct proceedings.
2) Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be identified. Disclosure is limited to those who have a need to know to carry out a research misconduct proceeding.

n. Restoration of Reputations: The University of Missouri takes all reasonable and practical efforts, if requested and as appropriate, to restore the reputations of individuals alleged to have engaged in research misconduct but against whom no finding of research misconduct is made.
o. Referrals: If the University's review of the allegations identifies misconduct other than research misconduct, the RIO refers these matters to the proper institutional or federal office for action.

5. Sanctions
The University may take disciplinary action, up to and including termination of employment, upon a finding of research misconduct. Applicable sanctions may include, but are not limited to:

a. Warning. A notice in writing to the Respondent and included in the Respondent's personnel file indicating that there is a finding of research misconduct.
b. Loss of Privileges. Denial of specified privileges of Respondent for a designated period of time. This may include but is not limited to suspending travel privileges and/or payment of travel or conference expenses, restricting use of laboratories or offices, limiting contact with students, or suspending access to teaching or research assistance or grant accounts, service on University committees or representation of the University on official business. The loss of privileges sanction may not be applied in a manner to create a constructive suspension.

c. Education or Training. Respondent may be required to complete education or training.
d. Restitution. Compensation by Respondent for loss, damage or injury to the University or University property. This may take the form of appropriate service and/or monetary or material replacement.
e. Suspension. Separation of the Respondent from the University for a definite period of time, after which the Respondent is eligible to return. Conditions for return should be specified. Suspension may be with or without salary (full or partial) for a period not to exceed one-half of the individual's normal appointment period. During the suspension period, health and retirement benefits shall be maintained.
f. Termination. Termination of an appointment with tenure will be pursuant to Section 310.060.

B. Procedure for Reviewing Alleged Research Misconduct

1. Statement of Purpose: It is the policy of the University of Missouri to inquire into and, if necessary, investigate and resolve promptly and fairly all instances of alleged research misconduct. As a recipient of federal research funds, the University of Missouri must have institutional policies and procedures in place to handle allegations of research misconduct.
2. Procedures for Conduct of Research Misconduct Proceedings
    a. In conducting a research misconduct proceeding:

        1) the procedures shall be those best suited to achieve a fair and equitable review of the Allegation;
        2) the procedures shall reflect a spirit of mutual respect and collegiality, and may, therefore, be as informal as agreed by the Respondent under the circumstances;
        3) the Respondent shall have the right to have an advisor as stated in this rule;
        4) in all preliminary assessments, inquiries, and investigations, the Respondent shall have the right to present evidence and to identify persons who might have evidence about the allegation;
        5) formal rules of evidence shall not apply;
        6) to the extent that a published regulation of a federal funding source requires a specific procedural element in the review and adjudication of an Allegation concerning a proposal to or an award from that federal funding source, that procedural element shall be included in the procedures adopted.
    b. General Counsel Advice: The Office of the General Counsel shall, when so requested, provide legal advice regarding the implementation of these procedures and other aspects of the University's review of an allegation under these procedures to the RIO, the Inquiry Committee, the Investigative Committee, the VCR, the DO, the Chancellor, and the Appellate Officer.
    c. Admission of Misconduct: When the case involves PHS funds, the University cannot accept an admission of research

misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI. For non-PHS funding, the DO shall have authority to terminate the University's review of any allegation upon the admission by the Respondent that research misconduct occurred and that the Respondent was responsible for it, if the termination of the review of that allegation would not prejudice the University's review of another allegation against that Respondent or a different Respondent or the University's ability to assess the extent and consequences of the research misconduct and what action should be taken in response to it.

d. Additional Respondents. If, during the course of any research misconduct proceeding, additional Respondents are identified, they shall be notified immediately, and the RIO shall, to the degree feasible, attempt to coordinate the research misconduct proceedings against all the Respondents with respect to the same or related research misconduct.

3. Allegations of Misconduct and Preliminary Assessments

a. Allegation of Research Misconduct

1) Any member of the University community or other person who wishes to make an allegation shall contact the RIO or other institutional official who will promptly notify the RIO.
2) The RIO shall notify the Respondent promptly of an allegation.
3) The RIO shall advise the VCR of all allegations.

b. Preliminary Assessment of Allegations

1) Promptly after receiving an allegation, the RIO shall assess the allegation to determine if:

a) it meets the definition of research misconduct;
b) it involves either the PHS funded research, applications for PHS research funding, or research records specified in U.S. Code of Federal Regulations or other non-PHS funding; and,
c) the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

c. Inquiry Not Warranted

1) Preliminary Assessment Report: If the RIO determines that an inquiry is not warranted because the allegation is not sufficiently credible and specific so that potential evidence of research misconduct may be identified, the RIO shall prepare a written preliminary assessment report that states the basis and rationale for the RIO’s determination. The RIO shall provide a copy of the preliminary assessment report to the VCR.
2) End of Review: If the VCR concurs with the RIO's

determination that an inquiry is not warranted, the University's review of that allegation shall be concluded. The Complainant and Respondent shall be notified in writing that the matter has been closed after preliminary assessment.

4. Conducting the Inquiry

    a. Initiation and Purpose of the Inquiry: Following the preliminary assessment, if the RIO determines that the allegation provides sufficient information to allow specific follow-up and falls under the definition of research misconduct, the RIO will initiate the inquiry process whether it involves PHS funding or not. In initiating the inquiry, the RIO should clearly identify the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the Respondent, Complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct definitely occurred and therefore does not require a full review of all the evidence related to the allegation.
    b. Timeframe: The inquiry committee is generally convened within 30 days of the determination to convene an inquiry. The inquiry, including the final report of the inquiry committee and decision of whether an investigation is warranted, should generally be completed within 60 days of the convening of the inquiry.
    c. Notice to Respondent:

        1) Within 15 days of the determination to convene an inquiry, the RIO will notify the Respondent in writing of the allegation(s). Respondent notification includes:

            a) The specific allegation(s);
            b) The rights and responsibilities of the Respondent;
            c) The role of the inquiry committee;
            d) A description of the inquiry process; and
            e) A copy of this rule.
            2) The RIO also will notify the dean and department chair, or equivalent in the Respondent’s department, in writing of the determination to convene an inquiry.

    d. Sequestration of the Research Records:

        1) After determining that an allegation falls within the definition of research misconduct, the RIO must ensure that all original research records and materials relevant to the allegation are secured. The RIO may consult with ORI for advice and assistance in this regard. 2) The RIO shall take

the following specific steps to obtain, secure, and maintain the research records and evidence pertinent to the research misconduct proceeding:

a) Either before or when the RIO notifies the Respondent of the allegation, the RIO shall promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory those materials, and sequester them in a secure manner. Provided that in those cases where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. b) Where appropriate, give the Respondent copies of, or as reasonable, supervised access to the research records.

e. Appointment of the Inquiry Committee:

1) The RIO, in consultation with other University officials (Deans, Chairs, VCR) as appropriate, will appoint an inquiry committee and committee chair. The inquiry committee should consist of at least 3 individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. These individuals may be scientists, subject matter experts, administrators, lawyers, or other qualified persons, and they may be from inside or outside the University. The majority of the committee will consist of tenured faculty.
2) The RIO will notify the Respondent of the proposed committee membership in writing. If the Respondent submits a written objection to any appointed member of the inquiry committee or expert based on bias or conflict of interest within 5 days, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.

f. Charge to the Committee and the First Meeting:

1) Charge to the Committee: The RIO will prepare a charge for the inquiry committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the Respondent, Complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation.
2) The First Meeting: At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate

procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The RIO and the Office of the General Counsel will be available throughout the inquiry to advise the committee as needed.

g. Inquiry Process: The inquiry committee will normally interview the Complainant, the Respondent and key witnesses as well as review relevant research records and materials. Then the inquiry committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the RIO and the Office of the General Counsel as needed, the committee members will decide whether there is sufficient evidence of possible research misconduct to recommend further investigation. The inquiry committee then prepares a report and submits it to the RIO.

5. The Inquiry Report

a. Elements of the Inquiry Report: The written inquiry report shall contain the following information:

1) The name and position of the Respondent(s);
2) A description of the allegations of research misconduct;
3) Research sponsorship, including, for example, grant numbers, grant applications, contracts, and publications listing PHS funding or other non-PHS funding;
4) The basis for recommending that the alleged conduct does or does not warrant an investigation; and
5) Any comments on the report by the Respondent or the Complainant. The report also should include recommendations on whether any other actions should be taken if an investigation is not recommended. The Office of the General Counsel will review the report for legal sufficiency.

b. Comments on the Report by the Respondent and Complainant: The RIO will provide the Respondent with a copy of the inquiry report for comment and rebuttal. At the RIO's discretion, the RIO also may provide the Complainant with a copy of the inquiry report for comment and rebuttal.

1) Confidentiality: The RIO may establish reasonable conditions for review to protect the confidentiality of the report.
2) Receipt of Comments: Within 10 days of receipt of the report or summary, the Respondent and Complainant will provide their respective comments, if any, to the inquiry committee. For good cause, the Respondent or Complainant may request an extension of time from the RIO, which shall be granted whenever reasonable.
3) Any comments that the Complainant or Respondent submits on the report will be shared with the inquiry committee and will become part of the final inquiry report

and record. Based on the comments, the inquiry committee may revise the report as appropriate.

c. Inquiry Decision and Notification:

    1) Decision by VCR: The RIO will transmit the final report of the inquiry committee and any comments to the VCR, who will make the determination of whether findings from the inquiry provide sufficient evidence of possible research misconduct to warrant conducting an investigation. The inquiry is completed when the VCR makes this determination.
    2) Notification: The RIO will notify the Respondent and may notify the Complainant in writing of the VCR's decision of whether to proceed to an investigation. If an investigation is opened, the notice will include a reminder of the obligation to cooperate. The RIO also will notify all appropriate University officials and ORI (as applicable) of the VCR's decision.

d. Time for Completing the Inquiry Report:

    1) The inquiry committee will normally complete the inquiry and submit its report in writing to the RIO no more than 90 days following its first meeting, unless the RIO approves an extension because circumstances warrant a longer period. If the RIO approves an extension, the reason for the extension will be entered into the record of the proceeding. The Respondent also will be notified of the extension.
    2) For allegations that involve PHS funding, within 30 days of the VCR's decision that an investigation is warranted the RIO shall provide ORI with the written finding and a copy of the inquiry report containing the information required by the U.S. Code of Federal Regulations. Upon a request from ORI, the RIO shall promptly send to ORI:

        a) a copy of institutional policies and procedures under which the inquiry was conducted;
        b) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and
        c) the charges for the investigation to consider.

    3) Inquiry reports of allegations that do not involve PHS funding in accordance with the definition of research misconduct will not be forwarded to ORI, but will otherwise be in accordance with this rule.

e. Documentation of Decision Not to Investigate: If the VCR decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by ORI of the reasons why an

investigation was not conducted. These documents must be provided to ORI or other authorized HHS personnel upon request.

6. Initiation and Purpose of the Investigation

    a. Purpose of the Investigation: The investigation must begin within 30 days after the determination by the VCR that an investigation is warranted. The purpose of the investigation is to explore in detail the allegations; to examine the evidence in depth; to determine specifically whether research misconduct has been committed, by whom, and to what extent; and, if research misconduct has been committed, to recommend appropriate sanctions. The investigation also will determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects, animals, or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be set forth in an investigation report.
    b. Sequestration of the Research Records: The RIO will promptly sequester any additional pertinent research records and evidence that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the Respondent is notified that an investigation has begun and whenever additional items become known or relevant to the investigation. The need for additional sequestration of records may occur for any number of reasons, including the University's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. Sequestration during the investigation will proceed in the same manner as during the inquiry outlined in Section 4.d of this rule.
    c. Appointment of the Investigation Committee: The committee will consist of at least three tenured professors appointed by the Faculty Council/Senate and optionally two members appointed by the RIO. This appointment will occur as soon as practicable after the Respondent has been notified that an investigation is planned. The investigation committee should consist of individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegations, interview the principals and key witnesses, and conduct the investigation. Individuals appointed by the RIO, as well as additional consultants to the committee, may be scientists, administrators, subject matter experts, lawyers, or other qualified persons, and they may be from inside or outside the University. Individuals appointed to the investigation committee may also have served on the inquiry committee. The RIO will notify the

Respondent of the proposed committee membership. If the Respondent submits a written objection to any appointed member of the investigation committee, the RIO will determine whether to replace the challenged member with a qualified substitute.

d. Charge to the Committee and the First Meeting:

    1) Charge to the Committee: The RIO will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, defines research misconduct, and identifies the name of the Respondent. The charge will state that the committee is to evaluate the evidence and testimony of the Respondent, Complainant, and key witnesses to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, to what extent, who was responsible, and its seriousness. During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional Respondents, the committee will notify the RIO, who will determine whether it is necessary to notify the Respondent of the new subject matter or to provide notice to additional Respondents.
    2) The First Meeting: The RIO, with the Office of the General Counsel, will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this rule and, where PHS funding is involved, the PHS regulation.

e. Investigation Process: In conducting all investigations, the University shall:

    1) Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the allegations;
    2) Interview each Respondent, Complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the Respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of investigation;
    3) Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional

instances of possible research misconduct, and continue the investigation to completion; and
4) Otherwise comply with the requirements for conducting a research misconduct investigation in the U.S. Code of Federal Regulations.
5) The Respondent will be notified sufficiently in advance of the scheduling his or her interview so that the Respondent may prepare for the interview and arrange for the attendance of an advisor, if the Respondent wishes.

7. The Investigation Report

    a. Elements of the Investigation Report: The RIO, in conjunction with the investigation committee, shall prepare the draft and final institutional investigation reports in writing and provide the draft report for comment as provided elsewhere in this rule and the U.S. Code of Federal Regulations. The final investigation report shall:

        1) Describe the nature of the allegations of research misconduct; 2) Describe and document the PHS funding (if applicable), including, for example any grant numbers, grant applications, contracts, and publications listing PHS funding; 3) Describe the specific allegations of research misconduct considered in the investigation and the charge to the Investigation Committee; 4) If reporting to ORI is required and not already provided to ORI, include the institutional policies and procedures under which the investigation was conducted; 5) Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody, but not reviewed. The report should also describe any relevant records and evidence not taken into custody and explain why. 6) Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation. For each instance where research misconduct was found, the Investigation Committee's report shall do the following:

            a) identify it as falsification, fabrication, or plagiarism;
            b) identify the basis for determining that it was a significant departure from accepted practices, that it was committed intentionally, knowingly, or recklessly, and that it was proved b a preponderance of the evidence;
            c) summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the Respondent and any evidence that rebuts the Respondent's explanations;
            d) identify the specific PHS funding or other

support (if applicable);
e) identify any publications that need correction or retraction;
f) identify the person(s) responsible for the research misconduct; and
g) list any current support or known applications or proposals for support that the Respondent(s) has pending with non-PHS Federal agencies or other funding entities; and
h) Include and consider any comments made by the Respondent and Complainant on the draft investigation report.

7) Recommend one or more sanctions to be imposed on each Respondent found responsible for research misconduct.

b. Comments on the Draft Report

1) Respondent: The RIO will provide the Respondent with a copy of the draft investigation report, and concurrently, a copy of, or supervised access to, the evidence on which the report is based and notify the Respondent that any comments must be submitted within 14 days of the date on which the Respondent received the draft report. For good cause, the Respondent may request an extension of time from the RIO, which shall be granted whenever reasonable. The Respondent's comments will be attached to the final report and are considered in the final investigation report.
2) Complainant: At the RIO's discretion, the RIO may provide the Complainant a copy of the draft investigation report or relevant portions of that report and notify the Complainant that any comments must be submitted within 14 days of the date on which the Complainant received the draft report or relevant portions of it. For good cause, the Complainant may request an extension of time from the RIO, which shall be granted whenever reasonable. The Complainant's comments will be attached to the final report and are considered in the final investigation report.
3) Review by Office of the General Counsel: The draft investigation report will be transmitted to the Office of the General Counsel for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.
4) Confidentiality: In distributing the draft report, or portions thereof, to the Respondent and Complainant, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may request the recipient to sign a confidentiality statement or to come to RIO's office to review the report.

5) Transmittal of the Final Investigation Report: After comments have been received and the necessary changes have been made to the draft report, the investigation committee will transmit the final report with attachments, including the Respondent's comments, to the DO, through the VCR.

c. University Review and Decision

1) Based on a preponderance of the evidence, the DO will make the final determination whether to accept the investigation report, its findings, and the recommended University actions, including sanctions to be imposed on each Respondent determined to be responsible for research misconduct. A preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not. If this determination varies from that of the investigation committee, the DO will explain in detail the basis for rendering a decision different from that of the investigation committee, and will include such explanation in the institution's letter transmitting the report to ORI (if applicable). The DO's explanation should be consistent with the PHS definition of research misconduct, this rule, and the evidence reviewed and analyzed by the investigation committee. The DO may also return the report to the investigation committee with a request for further fact-finding or analysis. The DO's determination, together with the investigation committee's report, constitutes the final investigation report for purposes of ORI review.

2) When a final decision on the case has been reached, the RIO will notify the Respondent in writing of the decision. In addition, the DO 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 case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

d. Time Limit for Completing the Investigation Report: An investigation should ordinarily be completed within 180 days of its initiation, with the initiation ordinarily beginning with the first meeting of the investigation committee. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the DO for approval, and submitting the report to the ORI (if applicable). If the University will not be able to complete the investigation in 180 days and the matter involve PHS funding, it will submit to ORI a written request for an extension and an explanation for the need for an extension.

8. Appeals

    a. The Respondent may appeal the decision by the DO to the appropriate Appellate Officer. If the Provost or other official served as the DO, the Appellate Officer will be the Chancellor or designee; if the Chancellor served as the DO, the Appellate Officer will be the President or designee. An appeal must state the reasons for appeal in detail and must be submitted to the Appellate Officer within seven days after receipt of notification of the decision. The appeal shall be limited to the following grounds:

        1) A procedural error occurred that significantly impacted the outcome of the finding or sanctions, e.g., substantiated bias or material deviation from established procedures.
        2) To consider new evidence, unavailable during the investigation, that could substantially impact the original findings or sanction.
        3) The sanction falls outside the range typically imposed for this offense, or for the cumulative disciplinary record of Respondent.

    b. Within seven days of receipt of the appeal from Respondent, the Appellate Officer shall provide a copy of the appeal to the DO.
    c. Within seven days of receiving a copy of the appeal, the DO may file a response to the appeal.
    d. Within 14 days of receiving the DO's response to the appeal, the Appellate Officer shall provide a determination in writing to the DO and Respondent. The Appellate Officer can affirm, modify or reverse the decision of the DO.
    e. The determination of the Appellate Officer is final and not subject to further review, including under the Academic Grievance Procedure in Section 370.010 of the Collected Rules and Regulations.
    f. Status during appeal – The Respondent may petition the Appellate Officer in writing for permission to stay the imposed sanction pending final determination of the appeal. The Appellate Officer may permit the stay of sanctions under such conditions as may be designated pending completion of the appeal, provided such continuance will not seriously disrupt the University or constitute a danger to the health, safety or welfare of members of the University community. If a stay is granted, any final sanctions imposed shall be effective from the date of the final decision.
    g. An appeal must be completed within 120 days of its filing. If additional time is needed, the Appellate Officer may extend this deadline for good cause. If the matter involves PHS support, the deadline may be extended only if an extension is requested from and granted by ORI.

9. Requirements for Reporting to ORI:

a. In cases involving Respondents who receive funding from the PHS, the University shall promptly provide the following information to ORI after the investigation has concluded:

    1) A copy of the investigation report and all attachments;
    2) A statement of whether the institution found research misconduct and, if so, who committed it;
    3) A statement of whether the institution accepts the findings in the investigation report; and
    4) A description of any pending or completed administrative actions against the Respondent.

b. The University shall maintain and provide to ORI upon request all relevant research records and records of its research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.
c. If the University plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the PHS regulation, the RIO will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.
d. If the University determines that it will not be able to complete the investigation in 120 days, the RIO will submit to ORI a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the RIO will file periodic progress reports as requested by the ORI.
e. When the case involves PHS funds, the University cannot accept an admission of research misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI.
f. At any time during a research misconduct proceeding, the University shall notify ORI immediately if it has reason to believe that any of the following conditions exist:

    1) Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
    2) HHS resources or interests are threatened.
    3) Research activities should be suspended.
    4) There is a reasonable indication of violations of civil or criminal law.
    5) Federal action is required to protect the interests of those involved in the research misconduct proceeding.
    6) The University believes the research misconduct proceeding may be made public prematurely, so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.
    7) The University believes the research community or public should be informed.

10. Other Considerations

a. Termination of University Employment or Resignation Prior to Completing Inquiry or Investigation

1) The termination of the Respondent's employment with the University, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, ordinarily will not preclude or terminate the misconduct proceedings. If the Respondent, without admitting to the misconduct, elects to resign the Respondent’s position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation ordinarily will proceed. If the Respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the Respondent's failure to cooperate and its effect on the committee's review of all the evidence.

11. Notice: All communication, including notices, decisions, and appeals may be sent via University e-mail. Notice sent to a University email account shall be deemed to have been received on the day following the day it was sent.