

**DETAILED PROCEDURES FOR RESPONDING TO
ALLEGATIONS OF MISCONDUCT IN RESEARCH**

Office of the Vice President for Research

Virginia Tech

Last revised: April 9, 2007

**These detailed procedures are a complement to Policy 13020: Policy on
Misconduct in Research**

Table of Contents

1. PURPOSE
2. DEFINITIONS
3. RIGHTS AND RESPONSIBILITIES
 - 3.1 Research Integrity Officer (RIO)
 - 3.2 Complainant
 - 3.3 Respondent
 - 3.4 Standing Member Committee
 - 3.5 Inquiry Committee
 - 3.6 Investigation Committee
 - 3.7 Deciding Official
 - 3.8 Confidentiality
 - 3.9 Protecting Complainants, Witnesses, and Committee Members
 - 3.10 Protecting the Respondent
 - 3.11 Interim Administrative Actions and Notification of Special Circumstances
4. PROCEDURES FOR THE ASSESSMENT AND INQUIRY
 - 4.1 Assessment of Allegations
 - 4.2 Initiation and Purpose of the Inquiry
 - 4.3 Notice to Respondent; Sequestration of Research Records
 - 4.4 Convening of the Inquiry Committee
 - 4.5 Charge to the Committee and First Meeting
 - 4.6 Inquiry Process
 - 4.7 Time for Completion
 - 4.8 The Inquiry Report
 - 4.8.1 Elements of the Inquiry Report
 - 4.8.2 Notification to the Respondent and Complainant—Opportunity to Comment
 - 4.8.3 Institutional Decision and Notification
 - 4.8.3.1 Final Decision
 - 4.8.3.2 Notification to Research Sponsors
 - 4.8.3.3 Documentation of Decision Not to Investigate
5. PROCEDURES FOR THE INVESTIGATION
 - 5.1 Initiation and Purpose
 - 5.2 Notifying Research Sponsor and Respondent; Sequestration of Research Records
 - 5.3 Convening of the Investigation Committee
 - 5.4 Charge to the Committee and the First Meeting
 - 5.4.1 Charge to the Committee

- 5.4.2 First meeting
- 5.5 Investigation Process
- 5.6 Time for Completion
- 5.7 The Investigation Report
 - 5.7.1 Elements of the Investigation Report
 - 5.7.2 Comments on the Draft Report and Access to Evidence
 - 5.7.2.1 Respondent
 - 5.7.2.2 Complainant
 - 5.7.2.3 Confidentiality
 - 5.7.3 Final Investigation Report

6. DISPOSITION FOR THE INVESTIGATION

- 6.1 Decision by Deciding Official
- 6.2 Notice to Research sponsor of Institutional Findings and Actions
- 6.3 Maintaining Records for Review
- 6.4 Completion of Cases; Reporting Premature Closures to ORI
- 6.5 Institutional Administrative Actions
- 6.6 Other Considerations
 - 6.6.1 Termination or Resignation Prior to Completing Inquiry or Investigation
 - 6.6.2 Restoration of the Respondent's Reputation
 - 6.6.3 Protection of the Complainant, Witnesses, and Committee Members
 - 6.6.4 Allegations Not Made in Good Faith

7. APPEALS

- 7.1 Filing Appeal
- 7.2 Decision by President

8. APPROVALS AND REVISIONS

9. REFERENCES

PROCEDURES FOR RESPONDING TO ALLEGATIONS OF MISCONDUCT IN RESEARCH

1. PURPOSE

To endorse high ethical standards in conducting research, the university has established a Policy on Misconduct in Research (Policy No. 13_____). Under this Policy, institutional members are to report any instances of observed, suspected, or apparent research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results). All allegations of misconduct of research are to be investigated and resolved in accordance with the procedures established herein.

2. DEFINITIONS

- A. *Allegation* means a disclosure of possible misconduct through any means of communication. The disclosure may be by written or oral statement or other communication to the Research Integrity Officer, an official of Virginia Tech, the government funding agency, or other research sponsor.
- B. *Fabrication* is making up data or results and recording or reporting them.
- C. *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.
- D. *Committee on Faculty Ethics (CFE)* is the subcommittee of the Faculty Senate whose role is to provide advice on questions involving ethics that do not involve misconduct in research. The CFE also participates on inquiry and investigation committees by appointing a representative to serve on each committee.
- E. *Complainant* means a person who in good faith makes an allegation of misconduct as required by the policy.
- F. *Deciding Official (DO)* means the institution's Provost who makes final determinations on institutional administrative actions in regard to findings of misconduct in research. The Deciding Official will not be the same individual as the Research Integrity Officer and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment.
- G. *Evidence* means any document, tangible item, or testimony offered or obtained during a misconduct proceeding that tends to prove or disprove the existence of an alleged fact.
- H. *Good faith* as applied to a Complainant or witness, means having a belief in the

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

- I. *Inquiry* means preliminary information-gathering and preliminary fact-finding.
- J. *Inquiry Committee* means the committee that performs the Inquiry.
- K. *Institutional member* means a person who is employed by, is an agent of, or is affiliated by contract or agreement with Virginia Tech. Institutional members may include, but are not limited to, officials, tenured and untenured faculty, administrative and professional faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteer participants in research, agents, and contractors, subcontractors, and subawardees, and their employees.
- L. *Investigation* is the process engaged after Inquiry if the inquiry committee determines that there is sufficient evidence to warrant investigation of the accusation. In the investigation phase there is a formal development of a factual record and the examination of that record leading to a finding of research misconduct or of no research misconduct.
- M. *Investigation Committee* means the committee that performs the Investigation.
- N. *Misconduct in Research (or Research Misconduct)* means Fabrication, Falsification, or Plagiarism in proposing, performing, or reviewing research; or in reporting research results. Research misconduct does not include honest error or differences in opinion and disputes over authorship except those involving plagiarism. It does not include issues relating to sexual harassment, personnel management, contract management, fiscal errors, or the reporting of poor effort. It also does not include abuse or improper procedures with laboratory animals or human subjects.
- O. *Plagiarism* is the appropriation of another person's ideas, processes, results, or words, including those of a student, colleague or mentor, without giving appropriate credit.
- P. *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.

- Q. *Records of misconduct proceedings* means: (1) the research records and evidence secured for the misconduct proceeding pursuant to this policy, except to the extent the Research Integrity Officer determines and documents that those records are not relevant to the proceeding or that the records duplicate other records that have been retained; (2) the documentation of the determination of irrelevant or duplicate records; (3) the inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate; (4) the investigation report and all records (other than drafts of the report) in support of the report, including any recordings or transcripts of each interview conducted; and (5) the complete record of any appeal within the institution from the finding of research misconduct.
- R. *Research Integrity Officer (RIO)* means the institution official responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct, and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified; and (2) overseeing inquiries and investigations; and (3) the other responsibilities described in these procedures.
- S. *Research misconduct proceeding* means any actions related to alleged research misconduct including but not limited to, allegation assessments, inquiries, investigations, hearings and administrative appeals.
- T. *Research record* means the record of data or results that embody the facts resulting from inquiry, including but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to a government agency or an institutional official by a Respondent in the course of the misconduct proceeding.
- U. *Respondent* means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.
- V. *Retaliation* means an adverse action taken against a Complainant, witness, or committee member by the institution or one of its institutional members in response to (1) a good faith allegation of research misconduct; or (2) good faith cooperation with a research misconduct proceeding, or against a respondent who has been cleared of research misconduct.
- W. *Standing member* is an individual that is selected by the Research Integrity Officer from the Standing Member Committee to serve as a chair or member of the Inquiry Committee or the Investigative Committee when requested.
- X. *Standing member committee* is a pool of pre-selected faculty members that have

been appointed by the Research Integrity Officer in consultation with the Provost and the President of the Faculty Senate to serve on research misconduct inquiries and investigations.

3. RIGHTS AND RESPONSIBILITIES

3.1 Research Integrity Officer (RIO)

The RIO will be an institutional official who is well qualified to administer the procedures and is sensitive to the varied demands made on those who conduct research, those who are accused of research misconduct, those who make good faith allegations of research misconduct, and those who may serve on inquiry and investigation committees.

The responsibilities of the RIO include the following duties related to research misconduct proceedings:

- Consult confidentially with persons uncertain about whether to submit an allegation of research misconduct;
- Receive allegations of research misconduct;
- Assess each allegation of research misconduct to determine whether it falls within the definition of research misconduct and warrants an inquiry;
- Review allegations that are not sufficiently credible and specific with the standing member of the Inquiry Committee before dismissing the allegation;
- As necessary, take interim action and notify research sponsors of special circumstances as required by applicable law;
- Sequester research data and evidence pertinent to the allegation of research misconduct, and preserve and maintain it securely in accordance with these procedures and applicable law and regulation;
- Provide confidentiality to those involved in the research misconduct proceeding as required by applicable law and institutional policy;
- Notify the Respondent and Complainant and provide opportunities for him/her to review/comment/respond to allegations, evidence, and committee reports in accordance these procedures;
- Inform Respondents, Complainants, and witnesses of the procedural steps in the research misconduct proceeding;
- Appoint expert members of the inquiry and investigation committees, ensure that

those committees are properly staffed, and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;

- Determine whether any person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;
- In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of the respondents that are not found guilty, complainants, witnesses, and committee members, and counter potential or actual retaliation against them by Respondents or other institutional members;
- Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of research misconduct;
- Notify and make reports to research sponsors as required by applicable law;
- Ensure that administrative actions taken by the institution and research sponsor are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of those actions; and
- Maintain records of the research misconduct proceeding and make them available to research sponsors as required by applicable law.

3.2 Complainant

The Complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. The Complainant may be interviewed at the inquiry stage. The Complainant shall be interviewed during an investigation. The RIO shall provide to the Complainant for comment: (1) relevant portions of the inquiry report (within a timeframe that permits the inquiry to be completed within 60 days of its initiation); and (2) the draft investigation report or relevant portions of it. The RIO must require that comments on the draft reports be submitted within 30 calendar days of the date on which the Complainant received the draft report. The Inquiry and Investigation Committees must consider any comments made by the Complainant on the draft reports and include those comments in the final reports.

3.3 Respondent

The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The Respondent is entitled to:

- A good faith effort from the RIO to notify the Respondent in writing at the time of or before beginning an inquiry;
- An opportunity to comment on the inquiry report and have his/her comments attached to the report;
- Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of, or refers to, applicable law and the institution's policies and procedures on research misconduct;
- Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (within 30 days after the institution decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;
- Be interviewed during the investigation
- Have interviewed during the investigation any witness who has been reasonably identified by the Respondent as having information on relevant aspects of the investigation,
- Receive 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 be notified that any comments must be submitted within 30 calendar days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.

The Respondent should be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. The RIO may terminate the institution's review of an allegation that has been admitted, subject to the any required approval of the research sponsor.

As provided in these procedures, the Respondent will have the opportunity to request an appeal of the final decision.

3.4 Standing Member Committee

The purpose of the Standing Member Committee is to have a pool of pre-selected faculty members that have agreed to serve on Inquiry and/or Investigative Committees of a research misconduct proceeding.

The Standing Member Committee will consist of a minimum of five faculty members that have been appointed by the Research Integrity Officer in consultation with the Provost and the President of the Faculty Senate.

Standing members serve a three year appointment and are limited to serving two consecutive terms, provided however that the terms of the initial standing members of the committee may be shorter or longer terms to allow for staggering terms of members.

3.5 Inquiry Committee

The Inquiry Committee will conduct the inquiry process, prepare the inquiry report and decide whether an investigation is warranted.

Any finding that an investigation is warranted must be made in writing by the Inquiry Committee and must be provided to the RIO who will submit it to the research sponsor as required by applicable law. If it is found that an investigation is not warranted, the RIO will ensure that detailed documentation of the inquiry is retained for at least 7 years after termination of the inquiry, so that research sponsors may assess the reasons why the institution decided not to conduct an investigation.

3.6 Investigation Committee

The Investigation Committee will conduct the investigation process and prepare the investigation report. The Committee will prepare the Final Investigation Report which will include the Committee findings (positive or negative findings of research misconduct).

3.7 Deciding Official

The DO will receive the investigation report and, after consulting with the Investigation Committee and other officials as appropriate, decide the extent to which the institution accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO, and a description of the any pending or completed administrative action are provided to research sponsors as required by applicable law.

3.8 Confidentiality

The RIO shall, as required by applicable law: (1) limit disclosure of the identity of Respondents and Complainants, 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 but subject to the requirements for disclosure to research sponsors and public federal administrative hearings; and (2) except as otherwise prescribed by applicable law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information. The RIO should provide confidentiality for witnesses when the

circumstances indicate that the witnesses may be harassed or otherwise need protection.

3.9 Protecting Complainants, Witnesses, and Committee Members

Institutional members may not retaliate against Complainants, witnesses, or committee members or against a respondent who has been cleared of research misconduct. Institutional members should immediately report any potential or actual retaliation against Complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation.

3.10 Protecting the Respondent

As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

During the research misconduct proceeding, the RIO is responsible for ensuring that Respondents receive all the notices and opportunities provided for in applicable law and the policies and procedures of the institution. Respondents may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal adviser to interviews or meetings on the case.

3.11 Interim Administrative Actions and Notification of Special Circumstances

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal funds and equipment, or the integrity of the research sponsor's research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and the research sponsor, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of sponsor funds and equipment, reassignment of personnel or of the responsibility for the handling of sponsor funds and equipment, additional review of research data and results or delaying publication. The RIO shall, at any time during a research misconduct proceeding, notify the research sponsor immediately if he/she has reason to believe that any of the following conditions exist:

- Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- Sponsor resources or interests are threatened;
- There is a reasonable indication of possible violations of civil or criminal law;

- Federal action is required to protect the interests of those involved in the research misconduct proceeding;
- The research misconduct proceeding may be made public prematurely and sponsor action may be necessary to safeguard evidence and protect the rights of those involved; or
- The research community or public should be informed.

4. PROCEDURES FOR THE ASSESSMENT AND INQUIRY

4.1 Assessment of Allegations

Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified and whether the allegation falls within the definition of research misconduct in this policy. An inquiry must be conducted if these criteria are met.

The RIO shall refer any allegations that are not within the definition of research misconduct to the appropriate university officials or units for further review and/or action. Prior to dismissing an allegation on the basis that it is not sufficiently credible and specific, the RIO shall review this determination with a member of the Standing Member Committee.

The assessment period should be brief, preferably concluded within a week unless extenuating circumstances are presented. In conducting the assessment, the RIO need not interview the Complainant, Respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the Respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding, as provided in these procedures.

4.2. Initiation and Purpose of the Inquiry

If the RIO determines that the criteria for an inquiry are met, the RIO will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

4.3. Notice to Respondent; Sequestration of Research Records

At the time of or before beginning an inquiry, the RIO must make a good faith effort to

notify the Respondent in writing. If the inquiry subsequently identifies additional Respondents, they must be notified in writing. On or before the date on which the Respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that 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. The RIO may consult with the research sponsor for advice and assistance in this regard.

The Respondent will be allowed to receive copies of any sequestered materials so that research progress can continue until a determination has been made.

4.4 Convening of the Inquiry Committee

The RIO, in consultation with other institutional officials as appropriate, will convene the Inquiry Committee within 10 days of the initiation of the inquiry or as soon thereafter as practical.

The Inquiry Committee is composed of a minimum of three voting members, consisting of a standing member as appointed by the Research Integrity Officer, a member appointed by the Committee on Faculty Ethics, and additional experts to be appointed by the Research Integrity Officer as necessary to evaluate specific allegations. The Inquiry Committee shall consist of an odd number of voting members. The standing member shall serve as the chair of the Inquiry Committee.

The Inquiry Committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.

The RIO shall notify the Respondent in writing of the proposed committee membership. The Respondent shall have 10 calendar days to object to a proposed member based upon a personal, professional, or financial conflict of interest. The RIO shall make the final determination of whether a conflict exists and shall reappoint members to the Inquiry Committee as necessary to mitigate the identified conflicts of interest.

4.5 Charge to the Committee and First Meeting

The RIO will prepare a charge for the Inquiry Committee that:

- Sets forth the time for completion of the inquiry;
- Describes the allegations and any related issues identified during the allegation

assessment;

- States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent, Complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;
- States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; and, (2) the allegation may have substance, based on the committee's review during the inquiry.
- Informs the Inquiry Committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and applicable law.

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 will be present or available throughout the inquiry to advise the committee as needed.

4.6 Inquiry Process

The Inquiry Committee will normally interview the Complainant, the Respondent, and key witnesses as well as examining relevant research records and materials. Then, the Inquiry Committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide, based upon a majority vote of the committee members, whether an investigation is warranted based on the criteria in this policy and applicable law. The scope of the inquiry is not required to, and does not normally, include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct, or conducting exhaustive interviews and analyses. However, if a sufficient admission of research misconduct is made by the Respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the institution shall promptly consult with the research sponsor to determine the next steps that should be taken.

If relevant, the Inquiry Committee will determine whether the Complainant's allegations of research misconduct were made in good faith. If the Inquiry Committee determines that there was an absence of good faith, the DO will determine whether any administrative action should be taken against the person who failed to act in good faith in accordance with Section 6.6.4.

4.7 Time for Completion

The inquiry, including preparation of the final inquiry report and the decision on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60-day period. The RIO shall notify the Respondent of any extension.

4.8 The Inquiry Report

4.8.1 Elements of the Inquiry Report

A written inquiry report must be prepared that includes the following information: (1) the name and position of the Respondent; (2) a description of the allegations of research misconduct; (3) the research sponsor, including, for example, grant numbers, grant applications, contracts and publications listing funding support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the Respondent or Complainant. The inquiry report may, as appropriate, also include: the names and titles of the committee members and experts who conducted the inquiry; a summary of the inquiry process used; a list of the research records reviewed; summaries of any interviews; and whether any other actions should be taken if an investigation is not recommended.

The RIO shall review the report for compliance with these procedures. Modifications should be made as mutually agreed by the RIO and the Inquiry Committee.

4.8.2. Notification to the Respondent and Complainant--Opportunity to Comment

The RIO shall notify the Respondent whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment within 10 days, and include a copy of or refer to applicable law and the institution's policies and procedures on research misconduct. The institution shall also notify the Complainant whether the inquiry found an investigation to be warranted and provide relevant portions of the inquiry report to the Complainant for comment within 10 days. A confidentiality agreement should be a condition for access to the report.

Any comments that are submitted will be attached to the final inquiry report. The Inquiry Committee will discuss any comments submitted with the RIO. Based on the comments, the Inquiry Committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.

4.8.3 Institutional Decision and Notification

4.8.3.1 Final Decision

The findings by the Inquiry Committee as contained in the final report constitute the final decision of the institution as to whether an investigation is warranted. The

inquiry is completed when the Inquiry Committee makes this determination. The determination shall be by majority vote of the committee.

4.8.3.2 Notification to Research Sponsors

Within 30 calendar days of the decision by the Inquiry Committee that an investigation is warranted, the RIO will, as required by applicable law, provide research sponsor with the written decision and a copy of the inquiry report. The RIO will also notify those institutional officials who need to know of the decision. The RIO must, if required by applicable law, provide the following information to the research sponsor upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation.

4.8.3.3 Documentation of Decision Not to Investigate

If the Inquiry Committee 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 the research sponsor of the reasons why an investigation was not conducted. These documents must be provided to the research sponsor as required by applicable law. The RIO shall, if needed, provide guidance to the Respondent on actions to take to eliminate future allegations of research misconduct.

5. PROCEDURES FOR THE INVESTIGATION

5.1 Initiation and Purpose

The investigation must begin within 30 calendar days after the determination that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also 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 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.

5.2 Notifying Research Sponsor and Respondent; Sequestration of Research Records

On or before the date on which the investigation begins, the RIO must, as required by applicable law: (1) notify the research sponsor of the decision to begin the investigation and provide such research sponsor a copy of the inquiry report; and (2) notify the

Respondent in writing of the allegations to be investigated. The RIO must also give the Respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

The RIO will, prior to notifying Respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. 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. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the institution'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. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

5.3 Convening of the Investigation Committee

The RIO will convene the Investigation Committee within 10 days of the beginning of the investigation or as soon thereafter as practical.

The Investigation Committee is composed of a minimum of five voting members, consisting of two (2) standing members appointed by the Research Integrity, a member appointed by the Committee on Faculty Ethics, and additional experts to be appointed by the Research Integrity Officer who have the appropriate expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the investigation. The Investigation Committee shall consist of an odd number of voting members. The Research Integrity Officer shall appoint one of the standing members to shall serve as the chair of the Investigation Committee.

The Investigation Committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the Respondent and Complainant and conduct the investigation.

Individuals appointed to the Investigation Committee may also have served on the inquiry committee. When necessary to secure the necessary expertise or to avoid conflicts of interest, committee members may be selected from outside the institution. The Investigation Committee is authorized to use consultants when necessary to evaluate specific allegations.

The RIO shall notify the Respondent in writing of the proposed committee membership.

The Respondent shall have 10 calendar days to object to a proposed member based upon a personal, professional, or financial conflict of interest. The RIO shall make the final determination of whether a conflict exists and shall reappoint members to the Investigation Committee as necessary to mitigate the identified conflicts of interest.

5.4. Charge to the Committee and the First Meeting

5.4.1. 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;
- Provides the committee with a copy of the Inquiry Report
- Identifies the Respondent;
- Informs the committee that it must conduct the investigation as prescribed in these procedures;
- Defines research misconduct;
- Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
- Informs the committee that in order to determine that the Respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this policy, occurred (Respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the research misconduct is a significant departure from accepted practices of the relevant research community; and (3) the Respondent committed the research misconduct intentionally, knowingly, or recklessly; and
- Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and applicable law.

Informs the committee that it must complete the investigation within 120 days of beginning the investigation

5.4.2. First Meeting

The RIO 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 the institution's policy, these procedures, and any applicable law. The RIO will be present or available throughout the investigation to advise the committee as needed.

5.5. Investigation Process

The Investigation Committee and the RIO must:

- 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 each allegation;
- Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
- Interview each Respondent, Complainant, and any other available person who has been reasonably identified as having probative/pertinent 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 the investigation; and
- Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

5.6 Time for Completion

The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to research sponsor as required by applicable law. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit a written request for an extension to the research sponsor as required by applicable law, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with the research sponsor as required by applicable law, if the research sponsor grants the request for an extension and directs the filing of such reports.

5.7. The Investigation Report

5.7.1. Elements of the Investigation Report

The Investigation Committee and the RIO are responsible for preparing a written

draft report of the investigation that:

- Describes the nature of the allegation of research misconduct, including identification of the Respondent (The Respondent's c.v. or resume may be included as part of the identification);
- Describes and documents the sponsored research support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing sponsor support;
- Describes the specific allegations of research misconduct considered in the investigation;
- Includes the institutional policies and procedures under which the investigation was conducted,
- Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the Respondent, including any effort by Respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion; (3) identify the specific sponsored research support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the Respondent has pending with research sponsors.

5.7.2. Comments on the Draft Report and Access to Evidence

5.7.2.1. Respondent

The RIO must give the Respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The Respondent will be allowed 30 calendar days from the date he/she received the draft report to submit comments to the RIO. The Respondent's comments must be included and considered in the final report.

5.7.2.2. Complainant

The institution shall provide the Complainant a copy of the draft investigation

report, or relevant portions of it, for comment. The Complainant's comments must be submitted within 30 calendar days of the date on which he/she received the draft report and the comments must be included and considered in the final report.

5.7.2.3. 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 require that the recipient sign a confidentiality agreement.

5.7.3 Final Investigation Report

The Investigation Committee will discuss the comments provided by the Respondent and Complainant and, as necessary, consult with the RIO and the DO. If necessary, the draft report will be modified in view of the comments and discussions. The RIO will assist the Investigation Committee in finalizing the investigation report, including ensuring that the Respondent's and Complainant's comments are considered by the committee and included as attachments to the report.

The final report will include the information as required by section 5.7.1 as well as the committee's positive or negative findings of research misconduct. Such findings shall be determined by majority vote of the committee.

6. DISPOSITION AND ADMINISTRATIVE ACTIONS

6.1 Decision by Deciding Official

The RIO will transmit the final investigation report to the DO who will consult with the committee on any questions the DO has regarding the committee's findings. The DO may return the report to the Investigation Committee with a request for further fact-finding or analysis. The DO will determine in writing the final disposition of the case including the recommended institutional actions.

When a final decision on the case has been reached, the RIO will normally notify both the Respondent and the Complainant in writing. After informing the research sponsor, as required by applicable law, 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.

6.2 Notice to Research Sponsor of Institutional Findings and Actions

Unless an extension has been granted by the sponsor, the RIO must, if required by applicable law, within the 120-day period for completing the investigation, or the 120-day period for completion of any appeal, submit the following to the sponsor: (1) a copy of the final investigation report with all attachments and any appeal; (2) a statement of whether the institution accepts the findings of the investigation report or the outcome of the appeal; (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the Respondent.

6.3 Maintaining Records for Review

The RIO must maintain and provide to the research sponsor records of research misconduct proceedings as required by applicable law. Normally, records of research misconduct proceedings must be maintained in a secure manner for seven (7) years after completion of the proceeding or the completion of any sponsor proceeding involving the research misconduct allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by a sponsor to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation.

6.4 Completion of Cases; Reporting Premature Closures to ORI

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. As required by applicable law, the RIO must notify the research sponsor in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that Respondent has admitted guilt, a settlement with the Respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct at the investigation stage.

6.5 Institutional Administrative Actions

If the DO determines there has been misconduct in research, he or she will decide on the appropriate actions to be taken, after consultation with the RIO. The administrative actions may include:

- Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
- Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;

- Restitution of funds to the grantor agency as appropriate; and
- Other action appropriate to the misconduct.

6.6 Other Considerations

6.6.1 Termination or Resignation Prior to Completing Inquiry or Investigation

The termination of the Respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution's responsibilities under applicable law.

If the Respondent, without admitting to the misconduct, elects to resign his or her position after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the Respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the Respondent's failure to cooperate and its effect on the evidence.

6.6.2. Restoration of the Respondent's Reputation

Following a final finding of no research misconduct, including research sponsor concurrence where required, the RIO will, at the request of the Respondent, undertake all reasonable and practical efforts to restore the Respondent's reputation. Depending on the particular circumstances and the views of the Respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the Respondent's personnel file. Any institutional actions to restore the Respondent's reputation should first be approved by the DO.

6.6.3. Protection of the Complainant, Witnesses and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution determines that research misconduct occurred, the RIO will undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any Complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the Complainant, witnesses, or committee members, respectively, what steps, if any,

are needed to restore their respective positions or reputations.

6.6.4. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the Complainant's allegations of research misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith he/she will determine whether any administrative action should be taken against the person who failed to act in good faith.

7. APPEALS

7.1 Filing appeal

A Respondent found to have engaged in research misconduct may initiate an appeal process within 10 calendar days of his/her receipt of the Final Decision. Any appeal process shall be completed within 120 days of its filing unless otherwise allowed by law or with approval of the research sponsor.

7.2 Decision by President

An appeal based upon the findings or administrative actions shall be in writing to the President and shall specifically identify the subject matter of the appeal and provide basis or evidence to support the appeal. The President will consult with the DO, the RIO, the Investigation Committee and others as necessary in reviewing the Respondent's basis for appeal. The President shall provide the Respondent a written decision on the appeal and the actions to be taken. The decision of the President is the final resolution of the appeal.

8. Approvals and Revisions

- Revision 0

Approved by Faculty Senate, _____

Approved by the President, _____

Approved by Board of Visitors, _____.

9. References

Policy No. 13020: Policy on Misconduct in Research

