

# INDIANA UNIVERSITY

## Policy and Procedures on Research Misconduct

*(By Action of the Bloomington Faculty Council: April 3, 2007)*

*(By Action of the University Faculty Council: April 24, 2007;  
Adapted from Policy On Research Integrity And Guidelines For Establishing Procedures  
For Responding To Allegations Of Research Misconduct,  
By Action of the University Faculty Council: February 10, 1998)*

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### Introduction

The primary mission of the university is to search for truth, and its members are strongly committed to this mission. Research conducted under the aegis of the university, therefore, must be guided by norms which facilitate this search, and which foster a spirit of creativity and honesty in the process. Because the conduct of research rests on the foundation of intellectual honesty, violations call into question not only the validity of the particular research project but the social context in which it is conducted. Scholars must be able to trust their peers, students must be able to trust their teachers, and citizens must be able to trust the integrity of the results of research performed in institutions of higher education.

The major responsibility for maintaining standards of intellectual integrity rests with individual scholars and with the departments in which they work. Accordingly, it is incumbent upon faculty members to exercise active leadership in their supervisory roles in mentoring, collaborating with, or directing junior colleagues, staff, or students.

The larger institution has a major role to play in three respects: (1) providing an environment for open inquiry in which research can be conducted appropriately, (2) declaring the standards which must not be abrogated, and (3) enforcing the standards on those occasions where violations may have occurred. The purpose of this document is to set forth the policies and procedures by which Indiana University seeks to maintain and enforce such standards through impartial fact-finding and fair adjudication of allegations of research misconduct. Policy and procedures described below are steps in an academic peer review and fact-finding process and are not intended or designed to represent rules of a judiciary proceeding or hearing. Principles of basic fairness and confidentiality shall be observed in these peer-review procedures.

## Definitions

**Charge.** A written allegation of misconduct that triggers the procedures described by this Policy.

**Complainant.** A person who submits a Charge of Research Misconduct.

**Deciding Official. (“DO”).** Deciding Official shall be the university official appointed by the President to implement and oversee this policy on a particular campus in a manner that is consistent with applicable federal regulations.

**Good Faith Charge.** A Charge of Research Misconduct made by a Complainant who believes that Research Misconduct may have occurred. A Charge is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the Charge.

**Inquiry.** The process under the Policy for information gathering and preliminary fact-finding to determine if a Charge or apparent instance of Research Misconduct has substance and therefore warrants an Investigation.

**Investigation.** The process under the Policy for the formal examination and evaluation of all relevant facts to determine whether Research Misconduct has occurred, and, if so, the responsible person and the seriousness of the misconduct.

**Investigator.** Any person, including but not limited to any person holding an academic or professional staff appointment at Indiana University, who is engaged in the design, conduct, or reporting of Research.

**Misconduct.** See “Research Misconduct.”

**ORI.** The Office of Research Integrity within the Department of Health and Human Services.

**PHS.** The unit of Public Health Services with the Department of Health and Human Services.

**Research.** A systematic investigation designed to develop or contribute to generalizable knowledge. The term encompasses basic, applied demonstration and research, as well as research training activities.

**Research Integrity Officer (RIO).** A person identified by the DO to have primary responsibility for assuring adherence to these procedures.

### **Research Misconduct.**

(1) Research Misconduct means fabrication, falsification or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

(a) Fabrication is making up data or results and recording or reporting them.

(b) 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.

(c) Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

(2) On all campuses, except IUPUI\*, Research Misconduct also includes (in addition to those acts specified in paragraph 1 above):

- (a) material failure to comply with applicable federal requirements for protection of researchers, human participants, or the public; or for ensuring the welfare of laboratory animals;
- (b) material failure to disclose all real or perceived conflict of interests; or
- (c) an abuse of confidentiality, such as the use (or release to others) of ideas or preliminary data of others which were given in the expectation of confidentiality, such as those gained from (i) access to privileged information through the opportunity for editorial review of manuscripts submitted to journals; and (ii) the opportunity for peer review of proposals by external entities or by internal committees such as the Human Subjects Committee, the Institutional Biosafety Committee or other committees through which one gains access to privileged research-related information.

*Research misconduct* does not include disputes regarding honest error or honest differences in interpretations or judgments of data, and is not intended to resolve bona fide scientific disagreement or debate. Research misconduct is also not intended to include "authorship" disputes such as complaints about appropriate ranking of co-authors in publications, presentations, or other work, unless the dispute constitutes plagiarism (as defined above).

**Research Record.** Any data, document, computer file, computer diskette, 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 a Charge of Research Misconduct. A Research Record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; printed or electronic correspondence; memoranda of telephone calls; 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.

**Respondent.** The person against whom a Charge of Research Misconduct is directed, or the person whose actions are the subject of an Inquiry or Investigation.

**RIO.** See "Research Integrity Officer."

**Sponsored Programs.** Research, training, and instructional projects involving funds, materials, gifts, or other compensation from external entities (including any individual and government agencies) under agreements with the University.

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\* IUPUI has in place alternative mechanisms for dealing with the types of research misconduct described in paragraphs 2(a), 2(b) and 2(c).

## Applicability

This policy applies to (i) all individuals who hold university appointments and all graduate students who are engaged in the conduct of research, whether or not the research is funded, and to (ii) anyone affiliated with Indiana University engaged in research through a Sponsored Program to the extent of that research. Except as provided in clause (ii) above, academic misconduct of undergraduate students shall be dealt with through the *Code of Student Rights, Responsibilities, and Conduct*. The Research Integrity Officer (RIO) may, in consultation with the Dean of the Graduate School, determine that an allegation of research misconduct on the part of a graduate student is more appropriately referred to the disciplinary channels provided in the *Code of Student Rights, Responsibilities, and Conduct* or such other disciplinary process duly established by the campus or an academic unit to take the place of the *Code of Students Rights, Responsibilities, and Conduct*.

The procedures adopted pursuant to the policy set forth in this document will apply to all allegations of unethical research practices unless specifically prohibited by an applicable negotiated settlement or by another disciplinary procedure established by the University.

## Multi-Campus Jurisdiction

Cases involving multiple Respondents who are subject to the jurisdiction of different Indiana University campuses shall be handled through a single investigatory process pursuant to these Research Misconduct Procedures. The DO(s) of the involved campus(es), in consultation with the provost or chancellor(s) of the involved campus(es), shall determine which campus process will be used. If the DO(s) and provost/chancellor(s) of the involved campuses are unable to reach agreement, then the President shall determine which campus process will be used. Such determinations shall be final.

## Duty to Cooperate

All persons to whom this Policy and Procedures apply, including those accused of misconduct, are obligated to cooperate with the process set forth in this document. Such cooperation shall include providing Research Records and other relevant information to the DO or his or her designee, and refraining from actions that are retaliatory or other actions that impair the process set forth in this Policy.

## Limitation of Actions

Allegations must be raised within six years of the date on which the alleged Research Misconduct occurred unless (i) the Respondent continues or renews any incident of alleged research misconduct that occurred before the six-year limitation through the citation, republication or other use for the potential benefit of the Respondent of the research record that is alleged to have been fabricated, falsified, or plagiarized; or (ii) if DO, following consultation with ORI, determines that the alleged misconduct, if it occurred, could possibly have a substantial adverse affect on the health or safety of the public.

## Confidentiality

This Policy and Procedures shall be carried out in such a way as to protect the privacy and confidentiality of Complainants and Respondents to the extent possible consistent with protecting the public health and safety and with carrying out the Inquiry or Investigation. If the Complainant requests anonymity, the University will strive to honor the request within the limits set by applicable policies and regulations and federal, state, and local law.

## Restoring Reputations

The University will make diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in Research Misconduct when Charges are not confirmed.

## Bad Faith Charge

A person who makes a charge of Research Misconduct in bad faith may be subject to sanctions if either the inquiry committee (if no further investigation is recommended) or the investigation committee finds bad faith to exist.

## Retaliation

The University will make diligent efforts to protect the positions and reputations of those persons who, in Good Faith, make Charges and those who cooperate with an Inquiry or Investigation into Charge of Research Misconduct. Instances of apparent retaliation will be reviewed by the DO for appropriate action consistent with the University's Whistleblower Policy. Appropriate preventative measures also may be instituted.

## Role of Counsel

The University (including the RIO, DO, or others acting on the University's behalf in the investigatory process) may consult with the University Counsel on procedural matters at any stage of the proceedings. The Respondent may be accompanied by counsel of his or her choice when interviewed in the course of an Inquiry or Investigation. Respondent's counsel may provide the Respondent advice, but may not participate in the proceedings.

## Conflict of Interest

At each stage of handling an Inquiry or subsequent Investigation, all persons involved shall be vigilant to prevent any real or perceived conflict of interest, or personal conflicts or relationships between colleagues, from affecting the outcome of the proceedings and resolution of the charges. Possible conflicts of interest may include co-authorship of work within the recent past with any of the individuals directly involved with the alleged misconduct, or professional or personal relationship with the Respondent beyond that of mere acquaintances or colleagues. If such relationships are present, the individual shall recuse himself or herself from any investigative or decisional role in the case. If any prospective Committee member at any point in the process

presents a conflict of interest, that committee member shall be replaced by another appointee of the appointing authority. If the DO has a conflict of interest, the campus provost or chancellor shall recommend a replacement to the President. The President shall name the replacement who will carry out the functions required of the DO under this Policy for the particular matter that creates a conflict for the DO. Conflicts of interest on the part of deans or department chairs shall be dealt with by the DO. If it becomes necessary to appoint a replacement during the course of the process, the new appointee shall be fully informed regarding earlier procedures and evidence secured, but it shall not be required that any of the process commence anew.

## Procedures

The following Procedures shall be used in connection with the reporting, inquiry, investigation and resolution of all Charges of Research Misconduct on all campuses of the University.

### 1. Rights and Responsibilities

a. Research Integrity Officer. The RIO will have primary responsibility for assuring adherence to these procedures. The RIO is responsible for initially assessing Charges of Research Misconduct, determining when such Charges warrant Inquiries, and for overseeing Inquiries and Investigations. The RIO may seek the advice and assistance of the Standing Committee on Research Integrity. The RIO will assist Inquiry and Investigation Committees, and will also assist members of the University community in complying with these procedures and with relevant standards imposed by government or other entities, such as professional associations. The RIO will ensure that all reporting requirements are met. The RIO is responsible for maintaining files of all documents and evidence and for the confidentiality and security of the files.

b. Complainant. The Complainant shall have an opportunity to be interviewed by the Inquiry and Investigation Committees, to review portions of the Inquiry and Investigation reports pertinent to those interviews, to be informed of the results of the Inquiry and Investigation, and to be protected, to the extent possible, from retaliation.

The Complainant is responsible for making Charges in Good Faith, maintaining confidentiality, and cooperating with any subsequent Inquiry or Investigation conducted as a result of information he or she has brought to the attention of the University.

c. Respondent. When an Inquiry is initiated, the Respondent shall be informed, in writing, of the Charges and shall be notified in writing of the final determinations and resulting actions. The Respondent shall also have the opportunity to be interviewed by, and present evidence to, the Inquiry and Investigation Committees, to review and comment on draft Inquiry and Investigation reports, and receive copies of the final reports.

The Respondent is responsible for maintaining confidentiality and for cooperating with the conduct of an Inquiry or Investigation. The Respondent shall refrain from retaliating against Complainants who raise Charges in Good Faith or against other persons who cooperate in Inquiries and Investigations.

d. Deciding Official (DO). The DO is responsible for implementation and oversight of these procedures. The DO retains final decision-making authority over all actions related to these procedures.

The DO will appoint Standing Committees on Research Integrity on the IUPUI and Bloomington campuses with the advice of faculty councils and other bodies representing the faculty. The Committee on the Bloomington campus shall serve the Bloomington Campus and the Northwest, South Bend, Kokomo, East and Southeast campuses and shall have appropriate representation from the campuses. The DO will appoint the committees to conduct Inquiries and Investigations. The DO will ensure that the necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an Inquiry or Investigation. The DO will also ensure the interim administrative actions are taken, as appropriate, to ensure compliance with all relevant government regulations.

e. Members of the University Community. All members of the University community have a duty to cooperate with the Inquiry and Investigation Committees and provide relevant evidence to the Committees and the RIO in the course of Research Misconduct proceedings.

## **2. Standards of Review**

A finding of Research Misconduct requires that:

- a. There be a significant departure from accepted practices of the relevant research community; and
- b. The Research Misconduct be committed intentionally, knowingly, or recklessly; and
- c. The allegation be proven by a preponderance of the evidence.

## **3. Preservation of Evidence**

a. Either before or when the RIO notifies the Respondent of a Charge, the RIO shall promptly 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. 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, the RIO shall give the Respondent copies of, or reasonable, supervised access to the Research Records.

c. The destruction, absence of, or Respondent's failure to provide Research Records adequately documenting the questioned research is evidence of Research Misconduct when the University establishes by a preponderance of the evidence that the Respondent had Research Records and intentionally, knowingly, or recklessly destroyed them, had the opportunity to maintain the records but did not do so, or maintained the records and failed to produce them in a timely manner and that

the Respondent's conduct constitutes a significant departure from accepted practices of relevant research community.

#### **4. Initiation of the Process**

Charges of Research Misconduct may be filed by anyone, whether associated with the University or not. Such charges may be made to:

- (i) the RIO; or
- (ii) the dean of the school in which the Respondent holds principal appointment; or
- (iii) the campus chancellor or provost.

Prior to submitting a formal Charge, a potential Complainant is encouraged to consult informally with the RIO. Any such consultation shall be confidential within the limits set by applicable policies and regulations and federal, state, and local law. The consultation helps to distinguish whether the case involves questions of Research Misconduct, is to be resolved by other deliberative or mediation procedures, or does not warrant further actions.

If a potential Complainant consults with the RIO, the RIO will inform him or her of the need to file written Charges if he or she wishes the matter to go forward. If the Complainant does not file a written Charge, after consulting with the RIO, the matter will be dropped, unless the RIO believes there may be sufficient cause and evidence to warrant an Inquiry in which case the RIO may submit written charges. The Complainant will also be informed of his or her obligation to cooperate in any Inquiry or Investigation that may take place.

Any administrator who receives credible information that Research Misconduct may have occurred, including unwritten information or information submitted anonymously, shall notify the RIO of such information. When such information comes to the attention of the RIO, the RIO shall reduce the concern to a written Charge and apply these Procedures.

a. Submission of Formal Allegation. Any written allegations received by the administrators other than the RIO shall be forwarded to the RIO.

b. Receipt of Formal Allegation. On receipt of a written Charge of Research Misconduct, the RIO shall, in consultation with the Standing Committee, determine whether the Charge is frivolous, does not raise questions of Research Misconduct, is more appropriately resolved by other deliberative or mediation procedures, or does not warrant further action. In such a case, the RIO may, at his or her discretion, handle the matter informally or refer it to the appropriate person or process. Such process may include the involvement of the Standing Committee in those instances where the Charges involve the responsible conduct of research, but do not constitute Research Misconduct.

c. Disposition of the Case. If the Charge does not raise questions of Research Misconduct, does not warrant further action, is determined to be frivolous, or is determined to be more appropriately resolved by other deliberative or mediation procedures, the Complainant and anyone else known to be aware of the Charge will be so notified. If the Charge is determined to be non-frivolous or is not

more appropriately resolved by other deliberative or mediation procedures, an Inquiry shall be initiated.

## **5. The Inquiry**

The purpose of an Inquiry is to determine whether there is sufficient credible evidence of possible Research Misconduct to warrant conducting an Investigation.

a. Appointment of Inquiry Committee. The Inquiry shall be carried out by a committee of no fewer than three persons appointed by the DO. The DO shall promptly appoint the Inquiry Committee after receiving the RIO's determination that an Inquiry should be initiated. Members of the committee shall have no Conflicts of Interest with the Respondent or with the case in question, shall be unbiased, and shall, together, possess sufficient expertise to enable the Committee to conduct the Inquiry and to evaluate the evidence and issues related to the Charge(s). Appointees are expected to notify the DO of any known Conflict of Interest or of an inability to render unbiased judgment. Wherever feasible, one member of the Inquiry Committee shall be from the department in which the Respondent holds primary appointment and one member shall be a faculty member from elsewhere in the University. One member of the Inquiry Committee must be a member of the Standing Committee. If necessary (e.g., to obtain appropriate expertise), the DO may appoint an individual from outside the University. Any exception of the designated composition of the Inquiry Committee shall be made only for good cause and shall be documented in the Inquiry report. The DO shall designate a chair, who shall be a University appointee who is not from the unit in which the Respondent holds primary appointment.

### b. Notification of Initiation of Inquiry.

#### (1) Notification of the Complainant.

The RIO shall notify the Complainant in writing of the initiation of the Inquiry, including a statement of the Charges and related issues that will be the subject of the Inquiry and the membership of the Inquiry Committee. The RIO shall include with the notification a copy of these procedures and an explanation of the rights and responsibilities. The RIO shall explain that while every attempt will be made to maintain anonymity through the Inquiry phase of the process (if requested by the Complainant), the Complainant's identity in most instances will be made known to the Respondent if an Investigation ensues.

#### (2) Notification of the Respondent.

Upon initiation of the Inquiry, the RIO shall meet with the Respondent to present the Respondent with written notification of the Charges and related issues and the membership of the Inquiry Committee; review the contents of the Charges; describe the process that will be followed; and promptly take possession of or otherwise secure the Research Record. The RIO shall include with the notification a copy of these procedures and an explanation of the Respondent's rights and responsibilities, including his or her right to submit a written response to the Charges. The RIO shall remind the Respondent of his or her obligation to cooperate with the investigative process and to provide all relevant materials and information.

(3) Notification of the Dean.

The Dean of the School in which the Respondent holds primary appointment shall be notified of the initiation of any Inquiry.

c. Objections to Committee Membership. The notifications shall state that the Respondent and the Complainant may object, in writing, to any of the proposed appointees on the grounds that the person does not meet the criteria stated in paragraph 5(a). Any objections shall be submitted to the DO within 5 working days of receipt of the notification. The DO shall consider the objection, and if it is reasonable, the DO shall replace the person with one who meets the stated criteria. The DO's decision as to whether the challenge is reasonable shall be final.

d. Charge to the Inquiry Committee. The RIO shall convene the first meeting of the Inquiry Committee, review the Charges, and describe appropriate procedures for conducting an Inquiry. The Inquiry Committee may consult with RIO as necessary during the course of the Inquiry.

If issues of Research Misconduct that fall outside of the charge to the Inquiry Committee arise during the course of the Inquiry, the Inquiry Committee shall so inform the RIO, including in its communication the evidence on which its concerns are based. The RIO, in consultation with the Standing Committee, will consider the issues raised and, if warranted, amend the Charges accordingly. The Respondent and Complainant shall receive appropriate notification of any such amendments.

e. Interviews. Whenever possible, interviews should be conducted with each individual involved either in making the Charge or against whom the Charge is made. The Inquiry Committee may interview others and examine relevant Research Records and materials, as necessary to determine whether there is sufficient credible evidence of Research Misconduct.

f. Provision of Documents. The Inquiry Committee shall have the authority to require submission to the Committee of any documents or materials it deems necessary to the conduct of the Inquiry.

g. Timing. The Inquiry (including the DO's determination whether an Investigation should be initiated) shall be completed within 60 calendar days after its initiation. Commencement of the Inquiry is defined as the first meeting of the Inquiry Committee convened by the RIO. If an inquiry takes longer than 60 days, the Inquiry Report must state the reasons of the extension of time.

h. The Inquiry Report. The Inquiry Committee shall document its findings in a report that states the Charges summarizes relevant interviews, and states the conclusions reached and the evidence on which it reached those conclusions. Where it finds that an Investigation is not warranted, the report and other retained documentation must be sufficiently detailed as to permit a later assessment of the reasons for the recommendation not to conduct an Investigation. The Inquiry report may be drafted with the assistance of the RIO. If the report recommends that an Investigation be conducted, it shall propose the subject matter to be included in the Investigation.

The draft Inquiry report shall be distributed to the Respondent. The RIO shall make available to the Complainant the draft report or relevant portions of the report (i.e., those portions that address the Complainant's role and opinions in the Inquiry) if the Complainant is identifiable. The RIO

may establish reasonable conditions for review to protect the confidentiality of the draft report. The Complainant and Respondent may submit written comments regarding the facts and findings to the RIO within 10 working days, which will be made a part of the final Inquiry record. Based on any comments received, the Inquiry Committee may revise the report, as the Committee deems appropriate.

The final Inquiry report, together with the Respondent's and Complainant's comments, if any, shall be forwarded to the DO for action.

## **6. Disposition of the Case Following an Inquiry**

Within 10 working days of receipt of the Inquiry report, including the comments, if any, the DO shall decide whether the findings from the Inquiry provide sufficient evidence of possible Research Misconduct to justify conducting an Investigation. If the DO's decision varies from the conclusion reached by the Inquiry Committee, the DO shall prepare a report explaining in detail the basis for his or her decision. The report shall document the DO's findings, stating the conclusions reached and the evidence on which the DO reached those conclusions, and shall be distributed to the Respondent, the Complainant, the Inquiry Committee, and the Standing Committee within the 10 working day period.

If the DO decides that the matter is not to be pursued further, the RIO will act to ensure that all reference to the matter is expunged from the Respondent's personnel file. A single copy of the records from the case sufficient to permit a later assessment of the reasons for the decision not to conduct an Investigation shall be maintained in a secure manner by the Office of the DO for a period of seven years after the termination of the Inquiry. Anyone known to have knowledge of the Inquiry (including the Respondent, the Complainant, the dean, chancellor, provost, the Standing Committee, and all persons who have been interviewed or otherwise informed of the Charges) shall be informed that the matter has been dropped because it was determined not to warrant an Investigation.

## **7. The Investigation**

The purpose of an Investigation is to determine whether the alleged Research Misconduct occurred and, if so, to recommend appropriate sanctions.

a. Notification of Initiation of Investigation. The RIO will notify the Respondent and the Complainant in writing that an Investigation will take place and remind them of their obligation to cooperate in the conduct of the Investigation. The RIO will also notify external funding agencies and appropriate governmental offices, in the manner and to the extent required by law.

b. Timing of Investigation.

(1) the Investigation shall commence within 30 calendar days after it is determined by the DO that an Investigation is warranted.

(2) the Investigation should be completed within 120 calendar days of its initiation, which shall be the date of the first meeting of the Investigation Committee convened by the RIO.

This includes conducting the Investigation, preparing the report of findings, making that report available for comment by the Respondent and the Complainant and, if required, submitting the report to governmental funding sources.

Extensions of time must be approved by the DO, and if the case involves PHS funding, the approval of ORI. The reasons for the extension must be documented in the Investigation report. The Respondent shall be notified of any extensions of time.

c. Investigation Process. The Investigation may be conducted through private interviews or, at the option of either the Investigation Committee or the Respondent, at a hearing at which the Respondent shall be invited to be present. Requests for hearings shall be made in writing within 15 working days of receipt of the notice of the Investigation.

(1) Notice of Hearing

RIO shall notify the Respondent at least 15 working days before the hearing concerning the following:

- (i) The date, time, and place of the hearing;
- (ii) That the Respondent is required to provide to the RIO the names of all persons he or she wishes to have interviewed or whose statements may be offered as evidence no later than 10 working days prior to the date of the hearing;
- (iii) That the RIO will provide the Respondent with the names of all additional interviewees who will give evidence at the hearing and will make available to the Respondent any statements or other material that will be presented during the hearing no later than 10 working days prior to the date of the hearing;
- (iv) That the Respondent is entitled to raise questions for the Investigation Committee to pose to each interviewee about the information provided by that interviewee and about the Charges;
- (v) That the Respondent is entitled to be accompanied at the hearing by counsel or an advisor of his or her choice and at his or her expense, who may provide the Respondent advice but may not participate in the proceedings;
- (vi) That the Respondent may make a statement, either orally or in writing to the Investigation Committee at the commencement of or at the end of the proceedings (at the Respondent's choice) concerning the Charges;
- (vii) That the hearing will be closed to the public unless both the Respondent and the DO agree to have the hearing open to the public as provided in (8) below; and
- (viii) That the Respondent may attend the presentation of evidence at the hearing, but not the Committee's deliberations.

(2) Appointment of Investigation Committee

The Investigation shall be conducted by an Investigation Committee of no fewer than five persons appointed by the DO. The DO shall appoint the Investigation Committee promptly upon the completion of the Inquiry. Members of the Investigation Committee shall have no Conflicts of Interest with the Respondent or the case in question, shall be unbiased, and shall, together possess the necessary expertise to enable them to evaluate authoritatively the relevant evidence of the alleged Research Misconduct and to conduct an Investigation. Committee members must have been uninvolved in the prior processes and must have no intimate knowledge of the case. Appointees are expected to notify the DO of any known Conflict of Interest or of an inability to render unbiased judgment. At least one member of the Committee shall be a peer of the Respondent from outside the University. The DO shall designate a chair of the Committee, who shall be a tenured member of the University faculty who is not from the unit in which the Respondent holds primary appointment. Where the Respondent is a member of the faculty, all appointees to the Investigation Committee shall be tenured faculty from this or another university.

(3) Notification of Appointment of Investigation Committee

The Respondent and Complainant shall be notified of the Committee membership and shall be given an opportunity to object to the Committee membership on the grounds that one or more members do not meet the above-stated criteria. Objections shall be made in writing to the DO within 5 working days of notification of the Committee's membership. The DO shall consider the objection, and if it is reasonable, the DO shall replace the person with one who meets the stated criteria. The DO's decision as to whether the challenge is reasonable shall be final.

(4) Charge to Investigation Committee; Standard of Review

The DO shall provide the Investigation Committee with a written charge of the subject matter to be considered in the Investigation. The charge will state that the Committee is to evaluate the evidence 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.

If issues of Research Misconduct that fall outside of the charge arise during the course of the Investigation, the Committee shall so inform the DO, including in its communication the evidence on which its concerns are based. The DO, in consultation with the RIO and the Investigation Committee, will consider the issues raised and, in the DO's discretion, provide the Investigation Committee with an amended charge. The Respondent shall be notified of any such amendments.

(5) Due Process

In all of its proceedings the Investigation Committee shall be governed by principles of due process and orderly procedures for ensuring the impartial examination by the Committee of all pertinent facts, University policies and procedures, and the legitimate interests of all parties involved.

(6) Collection of Information During the Investigation

The Respondent shall have the right to be interviewed by the Investigation Committee and accompanied by legal counsel or other advisor of his or her choice (who may provide the Respondent advice but not participate with proceedings); shall be permitted to identify persons who might have material information about the Charge, each of whom shall be interviewed by the Committee; to identify other relevant evidence, which shall be reviewed by the Committee; where the Respondent has requested a hearing, to hear all interviewees; to raise questions for the Investigation Committee to pose to each interviewee about the information provided by that interviewee and the Charge of Research Misconduct; and to respond to all written evidence.

The Committee shall interview the Complainant, if available, and shall review all pertinent documentary evidence. Before and during the Investigation the Committee may request and secure further information in writing from the Respondent which it thinks to be pertinent to the case. The Committee may also request that persons not identified by the Respondent provide information pertinent to the case either through interviews or in statements prepared for the Committee. These statements, if they are not presented during a hearing, shall be made available to the Respondent. The Respondent may request that a hearing be reconvened in order to add or to respond to such newly solicited material and information. The decision made by the Committee and any subsequent decision by University administrators shall be made only on the basis of evidence presented during the Investigation or solicited by the Investigation Committee and to which the Respondent has had the opportunity to respond. The Respondent may submit a written statement at the close of a hearing.

(7) Complainant's Confidentiality

If a Complainant who has requested that his or her identity be kept confidential declines to appear to be interviewed at a hearing, the Investigation may nevertheless go forward if the Investigation Committee determines that there is credible evidence of possible Research Misconduct apart from the Complainant's statements regarding the Charge of Research Misconduct.

(8) Open vs. Closed Hearings

Any hearings will be closed to the public unless both the Respondent and the DO agree to have the hearing open to the public. A request by the Respondent for an open hearing shall be made to the RIO in writing no later than 10 working days prior to the date set for the hearing.

(9) Record of Interviews; Transcripts

An audio tape recording of Investigation interviews shall be made. A copy of the audiotape or a transcript thereof shall be provided to each interviewee for his or her review to identify errors. The recording or transcript and any changes requested by the interviewee shall together constitute the record of the interview. If transcripts are created, they shall be maintained as the rest of the record of the case.

(10) Committee Recommendation

The Investigation Committee shall render a written report within 15 working days of completion of hearing. If there was no hearing, the Investigation Committee shall provide its written report within 15 working days of concluding its interviews or other investigative process. The Committee's report should specify the Charges, summarize the relevant information provided by persons interviewed by the Committee, make explicit findings of fact with respect to each Charge and list the evidence relevant to the findings and whether each Charge was proven by a preponderance of the evidence. The Report should provide the Committee's conclusions as to whether any proved Charge constitutes Research Misconduct.

It should also include a recommendation as to who was responsible for the Research Misconduct and its seriousness. The Committee shall also make recommendations of procedures to be undertaken by University administrators to achieve appropriate remedies. The report and other retained documentation must be sufficiently detailed as to permit a later assessment of the Investigation.

(11) Review of Committee Report by Respondent and Initiator

A draft of the Committee's report shall be forwarded to the Respondent. The draft report or relevant portions thereof (i.e., those portions that address the Complainant's role in the Investigation) also shall be made available to the Complainant for review. The Respondent and Complainant may submit written comments to the RIO within 15 working days, which will be made a part of the final Investigation record. The Committee's report, together with the Respondent's and Complainant's comments shall then be forwarded to the DO.

(12) Factual Findings are Conclusive

The factual findings of the Investigation Committee shall be conclusive and binding on any later proceeding convened for other purposes (e.g., grievances to the Faculty Board of Review relating to sanctions imposed).

**8. Disposition of the Case Following an Investigation**

Within 10 working days of receipt of the Investigation report, the DO shall decide what action to take or recommend.

a. Concurrence with the Committee

(1) No Misconduct

If the DO concurs with an Investigation Committee's recommendation that the Charges have not been proven by a preponderance of the evidence, the RIO will act to ensure that all reference to the matter is expunged from the Respondent's personnel file.

(2) Misconduct

If the DO concurs with an Investigation Committee's recommendation that Research Misconduct has been proven by a preponderance of the evidence, the Respondent shall be

notified in writing of the DO's decision. If the DO determines that a sanction should be imposed, the DO shall either take such action as is within the DO's authority or make recommendations for action to the appropriate person or decision-making body, as prescribed by University policy. Whether or not sanctions are imposed, the DO may prescribe corrective action responsive to the Research Misconduct and take any other appropriate action. The DO's findings shall be conclusive and binding on any later proceeding convened for other purposes (e.g., grievances to the Faculty Board of review relating to sanctions imposed).

b. DO's Decision at Variance With Committee's Recommendation. If, on review of the Investigation report, the DO disagrees with the Investigation Committee's recommendation, the DO shall prepare a report explaining in detail the basis for his or her concerns. The basis of the DO's concerns may be procedural or substantive. The DO shall provide the Investigation Committee with the statement of concerns and the Committee shall have 10 working days in which to address them. The Committee may, for example, gather additional evidence, deliberate further in light of the concerns raised by the DO, or correct the procedural problem(s) identified by the DO. The Committee may request and obtain from the DO extensions of time, as may be reasonably necessary for addressing the issues. The Investigation Committee shall provide the DO an amended Investigation report in response to the statement of concerns. The Respondent shall be provided a copy of the amended Investigation report, together with the DO's statement of concerns, and shall be given an opportunity to respond to the amended report and DO's statement of concerns. Relevant portions thereof (i.e., those portions that address the Complainant's role and opinions in the Investigation), shall be made available to the Complainant for review, and the Complainant shall have 10 working days to comment in writing on the amended report.

If the DO concurs with the recommendation in the amended Investigation report, the procedures specified in Section 8a shall be followed. If the DO's decision varies from the recommendation made by the Investigation Committee in the amended report, the DO shall prepare a report explaining in detail the basis for his or her decision. The report shall document the DO's findings, stating the conclusions reached and the evidence on which the DO reached those conclusions. The report should make explicit findings of fact with respect to each Charge. The DO's decision shall be based solely on evidence elicited in the Investigation and to which the Respondent has had the opportunity to respond. The DO's findings shall be conclusive and binding on any later proceeding convened for other purposes (e.g., grievances to the Faculty Board of Review relating to sanctions imposed). The Respondent shall be notified in writing of the DO's decision.

c. Restoration of reputation of the Respondent, Complainant and Others. Where the DO determines that the Respondent did not engage in Research Misconduct, the DO shall consult with the Respondent and take any action which the DO deems necessary to restore the Respondent's reputation. At the conclusion of any Investigation, the DO shall also consult with the Complainant and take any action which the DO deems necessary to restore the position or reputation of the Complainant.

## 9. Appeals

Through the process provided in this section, the Respondent may appeal a Research Misconduct determination or sanction. Appeals may be taken to the review body available to persons in the Respondent's appointment classification for the purpose of hearing employment grievances [e.g., the Faculty Board of review (in the case of academic appointees), the appropriate Graduate School body (where applicable in the case of graduate students), or the processes established by the University Personnel Policies relating to employee conduct (in the case of staff employees)].

a. Submission of Appeals. Appeals must be in writing and must be submitted to the appropriate body within 10 working days of receipt of notice of the DO's decision. The Respondent shall submit a copy of the appeal to the DO.

b. Subject of Appeals. Appeals shall be limited to: (1) claims that the process was flawed in a way that creates a significant risk that the outcome was erroneous; or (2) grievances of sanctions imposed as a result of a finding of Research Misconduct. The appeal must specify the nature of any claimed procedural error. The factual record established during the Investigation shall constitute the factual record for the purposes of the Appeal. The Appeal body may not review the factual finding of misconduct.

c. Exclusive Process. The procedures described in this document constitute the exclusive process for raising and resolving charges of Research Misconduct.

d. Time Frame. If PHS funding is involved, the appeal must be completed within 120 days, unless an extension is received from the Office of Research Integrity.

## 10. Severance of University Relationship

Severance of the Respondent's relationship with the University, whether by resignation or termination of employment, completion of or withdrawal from studies, or otherwise, before or after initiation of procedures under this policy, will not preclude or terminate Research Misconduct procedures. Ongoing Inquiries and Investigations shall be conducted, and appropriate internal and external notifications of the proceedings and of their outcome will be made.

## 11. Notifications

a. The DO shall notify federal funding entities if he/she believes that any of the following conditions exist:

(1) an immediate health hazard;

(2) an immediate need to protect federal funds or equipment;

(3) an immediate need to protect the interests of the Complainant or Respondent as well as the Respondent's co-investigators or associates, if any;

(4) a probability that the alleged incident is about to be publicly reported; or

(5) developments during an Investigation disclose facts that may affect current or potential funding of the Complainant or that the entity needs to know to ensure appropriate use of federal funds and protection of the public interest.

b. The DO shall determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which deceptive reports may have been published, collaborators of the Respondent in the work, or other concerned parties, should be notified of the outcome of a case. The RIO will be responsible for compliance with all requirements for notification of funding or sponsoring agencies.

## **12. Disposition of File**

After completion of the case and all ensuing related actions, the RIO shall prepare a complete file, including the original records of all proceeding conducted by the Inquiry and Investigation Committees and copies of all documents and other materials furnished to the RIO or to the Inquiry or Investigation Committee. The RIO shall seal the file and retain it for 7 years after completion of the proceeding or the completion of any PHS proceeding involving the Research Misconduct allegation. Access to the materials in the file shall be available only upon authorization of the DO for good cause.

The RIO shall return all original documents and materials to the persons who furnished them.

After seven years from the completion of the Investigation and all ensuing related actions, if any, the RIO will destroy the file unless the RIO makes a written finding that there is reason to retain it. The finding will state explicitly the reasons why and the period during which the file is to be maintained, and will be entered in the file. The Respondent shall receive either a notice that the file has been destroyed or a copy of the written finding that the file will be retained.

## **13. Procedural Changes**

a. Deadlines. Due to the sensitive nature of allegations of misconduct, each case shall be resolved as expeditiously as possible. The nature of some cases may, however, render normal deadlines difficult to meet. If at any time an established deadline cannot be met, a report shall be filed with the DO setting out the reasons why the deadline cannot be met and estimating when that stage of the process will be completed. A copy of this report shall be provided to Respondent.

b. Other Procedural Changes. Particular circumstances in an individual case may dictate variation from the normal procedures deemed in the best interests of the University. Any change from normal procedures must ensure fair treatment of the Respondent. Any significant deviation from the procedures described in this document shall be made only with the written approval of the DO.